



# भारत का राजपत्र

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सं. 24]

नई दिल्ली, जून 8—जून 14, 2014, शनिवार/ज्येष्ठ 18—ज्येष्ठ 24, 1936

No. 24]

NEW DELHI, JUNE 8—JUNE 14, 2014, SATURDAY/JYAIKTHA 18—JYAIKTHA 24, 1936

भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं

Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

गृह मंत्रालय

नई दिल्ली, 6 जून, 2014

**का.आ. 1685.**—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा संशोधित, 1987) के नियम 10 के उप-नियम (4) के अनुपरण में, गृह मंत्रालय के निम्नलिखित कार्यालयों में हिन्दी का कार्यसाधक ज्ञान रखने वाले कर्मचारियों की संख्या 80% से अधिक हो जाने के फलस्वरूप एतद्वारा अधिसूचित करती है :

1. कार्यालय महानिरीक्षक, ओडिशा सेक्टर, केन्द्रीय रिजर्व पुलिस बल, भुवनेश्वर (ओडिशा)
2. कार्यालय पुलिस उप-महानिरीक्षक, ग्रुप केन्द्र, केन्द्रीय रिजर्व पुलिस बल, काठगोदाम (उत्तराखण्ड)
3. कार्यालय उप-महानिरीक्षक, केन्द्रीय रिजर्व पुलिस बल, तरालू रैंज, तरालू (कर्नाटक)
4. कार्यालय कमान्डेंट, 195 बटालियन, केन्द्रीय रिजर्व पुलिस बल

5. कार्यालय कमान्डेंट, 227 बटालियन, केन्द्रीय रिजर्व पुलिस बल
6. कार्यालय कमान्डेंट, 228 बटालियन, केन्द्रीय रिजर्व पुलिस बल
7. कार्यालय कमान्डेंट, 229 बटालियन, केन्द्रीय रिजर्व पुलिस बल
8. कार्यालय पुलिस महानिरीक्षक, पश्चिम बंगाल सेक्टर, केन्द्रीय रिजर्व पुलिस बल, कोलकाता (प.ब.)
9. कार्यालय उप-महानिरीक्षक (चिकित्सा), संयुक्त अस्पताल, केन्द्रीय रिजर्व पुलिस बल, सिल्चर (असम)

[फा. सं. 12017/1/2012-हिन्दी]

अवधेश कुमार मिश्र, निदेशक (राजभाषा)

MINISTRY OF HOME AFFAIRS

New Delhi, the 6th June, 2014

**S.O. 1685.**—In pursuance of sub-rule (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976 (as amended in 1987), the Central

Government hereby notifies the following offices of the Ministry of Home Affairs, wherein the percentage of the staff having working knowledge of Hindi have gone above 80% :

1. O/o the Inspector General of Police, Odisha Sector, CRPF Bhuvneshwar (Odisha)
2. O/o the Dy. Inspector General, Group Centre, CRPF, Kathgodam (Uttarakhand)
3. O/o the Dy. Inspector General, CRPF, Taralu Range, Taralu (Karnataka)
4. O/o the Commandant, 195 Bn CRPF
5. O/o the Commandant, 227 Bn CRPF
6. O/o the Commandant, 228 Bn CRPF
7. O/o the Commandant, 229 Bn CRPF
8. O/o the Inspector General of Police, West Bengal Sector, CRPF, Kolkatta (W.B.)
9. O/o the Dy. Inspector General (Medical), Composite Hospital, CRPF, Silchar (Assam).

[F. No. 12017/1/2012-Hindi]

AVADHESH KUMAR MISHRA, Director (OL)

### वित्त मंत्रालय

(व्यव विभाग )

नई दिल्ली, 5 जून, 2014

**का.आ. 1686.**—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में भारतीय लेखा परीक्षा और लेखा विभाग के निम्नलिखित कार्यालयों को, जिनके अस्सी प्रतिशत कर्मचारिवृद्ध ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती हैं :

1. प्रधान निदेशक, लेखा परीक्षा (केन्द्रीय), आंध्र प्रदेश, हैदराबाद।
2. प्रधान निदेशक वाणिज्यिक लेखा परीक्षा एवं पदेन सदस्य लेखा परीक्षा बोर्ड, बैंगलूरु।
3. प्रधान महालेखाकार, (लेखा परीक्षा), झारखण्ड, राँची।
4. महालेखाकार, (लेखा परीक्षा), छत्तीसगढ़, रायपुर।
5. प्रधान महालेखाकार (लेखा परीक्षा)-III महाराष्ट्र, मुम्बई।

[फ. सं. ए-12034/02/2014-ई. जी.]

सुभाष चन्द, उप-सचिव

### MINISTRY OF FINANCE

(Department of Expenditure)

New Delhi, the 5th June, 2014

**S.O. 1686.**—In pursuance of sub-rule (4) of rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following offices of the Government of India in the Indian Audit and Accounts Department, in which eighty per cent of the staff have acquired the working knowledge of Hindi, namely :

1. Principal Director of Audit, (Central) Andhra Pradesh, Hyderabad;
2. Principal Director of Commercial Audit and Ex-officio Member, Audit Board, Bangalore;
3. Principal Accountant General (Audit) Jharkhand, Ranchi;
4. Accountant General (Audit) Chhattisgarh, Raipur;
5. Principal Accountant General (Audit)-III Maharashtra, Mumbai.

[F. No. A-12034/02/2014-EG]

SUBHASH CHAND, Dy. Secy.

(वित्तीय सेवाएं विभाग )

नई दिल्ली, 10 जून, 2014

**का.आ. 1687.**—वर्ष 2000 में यथा संशोधित भारतीय लघु उद्योग विकास बैंक अधिनियम, 1989 की धारा 6(1)(ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, वित्तीय सेवाएं विभाग, वित्त मंत्रालय, नई दिल्ली के संयुक्त सचिव श्री आलोक टण्डन को तत्काल प्रभाव से और अगले आदेश होने तक, श्री अरविन्द कुमार के स्थान पर भारतीय लघु उद्योग विकास बैंक (सिडबी) के निदेशक मण्डल में निदेशक नामित करती है।

[फ. सं. 24/5/2002-आईएफ-I (खंड-IV)]

उदय भान सिंह, अवर सचिव

(Department of Financial Services)

New Delhi, the 10th June, 2014

**S.O. 1687.**—In exercise of the powers conferred by Section (6)(1)(C) of the Small Industries Development Bank of India Act, 1989 as amended in the year 2000, the Central Government hereby nominates, Shri Alok Tandon, Joint Secretary, Department of Financial Services, Ministry of Finance, New Delhi as Director on the Board of Small Industries Development Bank of India with immediate effect and until further orders vice Shri Arvind Kumar.

[F. No. 24/5/2002-IF-I (Vol. IV)]

UDAI BHAN SINGH, Under Secy.

नई दिल्ली, 13 जून, 2014

**का.आ. 1688.**—बीमांकक अधिनियम, 2006 (2006 का 35) की धारा 26 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री एन. श्रीनिवास राव, निदेशक, वित्तीय सेवाएं विभाग को सुश्री प्रिया कुमार, निदेशक, वित्तीय सेवाएं विभाग के स्थान पर, अगले आदेश होने तक, भारतीय बीमांकक संस्थान परिषद् द्वारा गठित अनुशासनात्मक समिति में सदस्य नामित करती है।

[फा. सं. 97(11)/2003-बीमा-III]

डॉ. शशांक सक्सेना, निदेशक

New Delhi, the 13th June, 2014

**S.O. 1688.**—In exercise of the powers conferred by sub-section (1) of Section 26 of the Actuaries Act, 2006 (35 of 2006), the Central Government hereby nominates Shri N. Srinivasa Rao, Director, Department of Financial Services as Member on the Disciplinary Committee constituted by the Council of the Institute of Actuaries of India till further orders vice Ms. Priya Kumar, Director, Department of Financial Services.

[F No. 97(11)/2003-Ins. III]

Dr. SHASHANK SAKSENA, Director

### मानव संसाधन विकास मंत्रालय

(उच्चतर शिक्षा विभाग)

नई दिल्ली, 24 अप्रैल, 2014

**का.आ. 1689.**—शिक्षा ऋण साख गारंटी निधि की स्थापना हेतु मंत्रिमंडल के अनुमोदन (मामला संख्या 364) के अनुसरण में, यह विभाग बतौर निधि व्यवस्थापक एतद्वारा निम्नलिखित निधि प्रबंधन समिति नियुक्त करता है।

- (i) सचिव, उच्चतर शिक्षा विभाग — अध्यक्ष (पदन)
- (ii) संयुक्त सचिव (आई एफ), वित्त सेवा विभाग — सदस्य
- (iii) संयुक्त सचिव (पीएफ-II), व्यवस्थापक विभाग — सदस्य
- (iv) संयुक्त सचिव (एचई), उच्चतर शिक्षा विभाग — सदस्य
- (v) निदेशक, योजना आयोग — सदस्य
- (vi) शिक्षा विशेषज्ञ (प्रो. संजय जी. ढांडे) — सदस्य
- (vii) बैंकिंग विशेषज्ञ (श्री एस. एस. भट्ट, महाप्रबंधक, केनरा बैंक) — सदस्य

[फा. सं. एफ-18-1/2013-यू.5]

सहदेव सिंह, अवर सचिव

### MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Higher Education)

New Delhi, the 24th April, 2014

**S.O. 1689.**—Pursuant to the Cabinet approval (case No. 364) for establishment of a Credit Guarantee Fund for Education Loan, this Department as a settler of the Fund hereby appoints a Management Committee of the Fund consisting of the following :—

- |   |                            |
|---|----------------------------|
| (i) Secretary, Department of Higher Education               | — Chairman<br>(Ex officio) |
| (ii) Joint Secretary (IF), Department of Financial Services | — Member                   |
| (iii) Joint Secretary (PF. II), Department of Expenditure   | — Member                   |
| (iv) Joint Secretary (HE), Department of Higher Education   | — Member                   |
| (v) Director, Planning Commission                           | — Member                   |
| (vi) Education Expert (Prof. Sanjay G. Dhande)              | — Member                   |
| (vii) Banking Expert (Shri S. S. Bhat, GM, Canara Bank)     | — Member                   |

[F No. F-18-1/2013-U.5]

SAHDEV SINGH, Under Secy.

### कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 3 जून, 2014

**का.आ. 1690.**—दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, मिजोरम राज्य सरकार, सतर्कता विभाग, मिजोरम सचिवालय भवन, खाल्ता, ऐजवल द्वारा उनकी दिनांक 13 फरवरी, 2014 की अधिसूचना सं. सी-31011/1/2014-वीआईजी/1 के तहत दी गई सहमति से सरकारी निधियों के कथित दुर्वियोजन से संबंधित आकाशवाणी रेडियो, ऐजवल केन्द्र, मिजोरम के श्री जोसांगजुआला, सहायक केन्द्र निदेशक, श्रीमती लालनुनजिरी, कार्यक्रम कार्यपालक और सुश्री जूडी एच. लालमुआनपुली, अ.श्रे.लि. के विरुद्ध 19-02-2013 से भूतलक्षी प्रभाव से भारतीय दंड संहिता 1860 (1860 का अधिनियम सं. 45) की धारा 120-ख, 409, 420, 467 और 471 तथा भ्रष्टाचार निवारण अधिनियम, 1988 (1988 की धारा 49) की

धारा 13(1)(ग) एवं (घ) के तहत दिनांक 30-4-2013 के मामला आरसी 03 (ए)/2013 की जांच हेतु दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकार-क्षेत्र का विस्तार संपूर्ण मिजोरम राज्य पर करती है।

[सं. 228/30/2014-एवीडी-II]

राजीव जैन, अवर सचिव

**MINISTRY OF PERSONNEL, PUBLIC  
GRIEVANCES AND PENSIONS**

**(Department of Personnel and Training)**

New Delhi, the 3rd June, 2014

**S.O. 1690.**—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Mizoram, Vigilance Department, Mizoram Secretariat Building, Khatla, Aizawl vide Notification C.31011/1/2014-VIG/1 dated 13th February, 2014, hereby extends the powers and Jurisdiction of the members of the Delhi Special Police Establishment to the whole State of Mizoram for investigation of Case RC.03(A)/2013 dated 30.4.2013 under sections 120-B, 409, 420, 467 and 471 of the Indian Penal Code, 1860 (Act No. 45 of 1860) and section 13(1)(c) &(d) of the Prevention of Corruption Act, 1988 (Act 49 of 1988) with retrospective effect from 19.2.2013 against Sh. Zosangzuala, Assistant Station Director, Smt. Lalnunziri, Programme Executive and Ms. Judy H. Lalmuanpuli, LDC, all of All India Radio, Aizawl Station, Mizoram relating to alleged misappropriation of Government Funds.

[No. 228/30/2014-AVD-II]

RAJIV JAIN, Under Secy.

नई दिल्ली, 5 जून, 2014

**का.आ. 1691.**—केन्द्रीय सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए आंध्र प्रदेश राज्य सरकार, गृह विभाग, आर्टिक सुरक्षा शाखा, गुप्त अनुभाग, कोलकाता द्वारा उनकी दिनांक 12 फरवरी, 2014 की अधिसूचना सं. 203/1(5)-आई. एस. एस. के तहत दी गई सहमति से बज बज (पश्चिम बंगाल) पुलिस स्टेशन में दर्ज भारतीय दंड संहिता 1860 (1860 का अधिनियम सं. 45) की धारा 409 के तहत 25-11-2012 को दर्ज केस 369/12 के अन्वेषण तथा उपर्युक्त अपराधों के संबंध में प्रयत्नों, दुष्प्रेरणों एवं घड़यत्रों की जांच हेतु दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकार-क्षेत्र का विस्तार संपूर्ण पश्चिम बंगाल राज्य पर करती है।

[सं. 228/29/2014-एवीडी-II]

राजीव जैन, अवर सचिव

New Delhi, the 5th June, 2014

**S.O. 1691.**—In exercise of the powers conferred by sub-section(1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Andhra Pradesh Home (SC.A) Department, vide Notification G.O.Ms. No. 68 dated 1.4.2014, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Andhra Pradesh for investigation and inquiry of Crime No. 55/2013 registered at Police Station Polavaram, District East Godavari (Andhra Pradesh) relating to the death of Shri Akkineni Ravi Shankar Prasad, Chairman and Managing Director, Hotel Anand Regency, Yanam and attempts, abetments and conspiracies in relation to or in connection with the above mentioned offence.

[No. 228/29/2014-AVD-II]

RAJIV JAIN, Under Secy.

नई दिल्ली, 6 जून, 2014

**का.आ. 1692.**—दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, पश्चिम बंगाल राज्य सरकार, गृह विभाग, आर्टिक सुरक्षा शाखा, गुप्त अनुभाग, कोलकाता द्वारा उनकी दिनांक 12 फरवरी, 2014 की अधिसूचना सं. 203/1(5)-आई. एस. एस. के तहत दी गई सहमति से बज बज (पश्चिम बंगाल) पुलिस स्टेशन में दर्ज भारतीय दंड संहिता 1860 (1860 का अधिनियम सं. 45) की धारा 409 के तहत 25-11-2012 को दर्ज केस 369/12 के अन्वेषण तथा उपर्युक्त अपराधों के संबंध में प्रयत्नों, दुष्प्रेरणों एवं घड़यत्रों की जांच हेतु दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकार-क्षेत्र का विस्तार संपूर्ण पश्चिम बंगाल राज्य पर करती है।

[सं. 228/28/2014-एवीडी-II]

राजीव जैन, अवर सचिव

New Delhi, the 6th June, 2014

**S.O. 1692.**—In exercise of the powers conferred by sub-section(1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of West Bengal, Home Department, Internal Security Branch, Secret Section, Kolkata vide Notification No. 203/1 (5)-I.S.S. dated 12th February, 2014, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole State of West Bengal for investigation of Case 369/12 dated 25.11.2012 under section 409 of the Indian Penal Code, 1860 (Act No. 45 of 1860) registered at Police Station Budge Budge (West Bengal) and attempts, abetments and conspiracies in relation to the above mentioned offences.

[No. 228/28/2014-AVD-II]

RAJIV JAIN, Under Secy.

## अंतरिक्ष विभाग

बैंगलूर, 3 जून, 2014

**का.आ. 1693.**—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में एतद्वारा अन्तरिक्ष विभाग के निम्नलिखित कार्यालय, जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

भारतीय सुदूर संवेदन संस्थान,  
4, कालीदास रोड,  
देहरादून-248 0001

[फा. सं. 8/1/10/2011-हि.]

एन. पट्टाभि रामन, अवर सचिव

## DEPARTMENT OF SPACE

Bangalore, the 3rd June, 2014

**S.O. 1693.**—In pursuance of Sub-rule (4) of the Rule 10 of the Official Language (use for official purpose of the Union) Rule, 1976, the Central Government, hereby notifies the following Office of the Department of Space, whereof more than 80 per cent staff have acquired the working knowledge of Hindi.

Indian Institute of Remote Sensing,  
#4, Kalidas Road,  
Dehradun-248001

[F No. 8/1/10/2011-H]

N. PATTABI RAMAN, Under Secy.

## उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

( उपभोक्ता मामले विभाग )

( भारतीय मानक ब्यूरो )

नई दिल्ली, 31 मई, 2014

**का.आ. 1694.**—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (को) में संशोधन किया गया/किये गये हैं।

## अनुसूची

क्रम संख्या	संशोधित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	संशोधन की संख्या और तिथि	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 285 : 1992	संशोधन संख्या 5, फरवरी 2014	31 अगस्त, 2014
2.	आई एस 418 : 2004	संशोधन संख्या 5, जनवरी 2014	31 मई, 2015
3.	आई एस 9206 : 1979	संशोधन संख्या 5, जनवरी 2014	31 मई, 2015
4.	आई एस 432(1) : 1982	संशोधन संख्या 2, फरवरी 2014	31 मई, 20154
5.	आई एस 1061 : 1997	संशोधन संख्या 5, फरवरी 2014	31 अगस्त, 2014
6.	आई एस 1258 : 2005	संशोधन संख्या 4, दिसंबर 2013	31 जुलाई, 2014
7.	आई एस 1293 : 2005	संशोधन संख्या 6, दिसंबर 2013	31 जुलाई, 2014

(1)	(2)	(3)	(4)
8.	आई एस 3854 : 1997	संशोधन संख्या 7, दिसंबर 2013	31 जुलाई, 2014
9.	आई एस 3832 : 2005	संशोधन संख्या 2, फरवरी 2014	31 मई, 2014
10.	आई एस 8034 : 2002	संशोधन संख्या 3, नवंबर 2013	31 मई, 2014
11.	आई एस 14220 : 1994	संशोधन संख्या 6, दिसंबर 2013	31 मई, 2014
12.	आई एस 14276 : 1995	संशोधन संख्या 5, फरवरी 2013	31 मई, 2014
13.	आई एस 14587 : 1998	संशोधन संख्या 6, दिसंबर 2013	31 मई, 2014

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्लूरों, मानक भवन, 9, बहादुरशाह जफर मार्ग, नई दिल्ली-110 002 क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं। भारतीय मानकों को <http://www.standardsbis.in> द्वारा इंटरनेट पर खरीदा जा सकता है।

[संदर्भ : पीयूबी/जी एन-2 : 2]

कला एम. वारियर, निदेशक (विदेशी भाषा एवं प्रकाशन)

## MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 31st May, 2014

**S.O. 1694.**—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :—

### SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4))
1.	IS 285 : 1992 Laundry Soaps - Specification (Third Revision)	Amendment No. 5, February 2014	31 August, 2014
2.	IS 418 : 2004 - Tungsten Filament Lamps for Domestic and similar general lighting purpose	Amendment No. 5, January 2014	31 May, 2015
3.	IS 9206 : 1979 - Dimension of caps for tungsten filament general service electric lamps	Amendment No. 5, January, 2014	31 May, 2015

(1)	(2)	(3)	(4))
4.	IS 432 (Part 1) : 1982 Specification for mild steel and medium tensile steel bars and hard-drawn steel Wire for concrete reinforcement : Part 1 Mild steel and medium tensile steel bars (Third Revision)	Amendment No. 2, February 2014	31 May, 2014
5.	IS 1061 : 1997 Disinfectant Fluids, Phenolic Type (Fourth Revision)	Amendment No.5, February 2014	31 August, 2014
6.	IS 1258 : 2005 Bayonet lamp holders (Fourth Revision)	Amendment No. 4, December 2013	31 July, 2014
7.	IS 1293 : 2005 Plugs & Socket outlets of rated Voltage upto & including 250V and rated current upto and including 16 amperes Specification (Third Revision)	Amendment No. 6, December 2013	31 July, 2014
8.	IS 3854 : 1997 Specification Switches for Domestic & Similar purposes (Second Revision)	Amendment No. 7, December 2013	31 July, 2014
9.	IS 3832 : 2005 Hand operated chain pulley block - Specification (Third Revision)	Amendment No. 2, February 2014	31 May, 2014
10.	IS 8034 : 2002 Submersible Pumpsets - Specification (Second Revision)	Amendment No. 3, November 2013	31 May, 2014
11.	IS 14220 : 1994 Openwell Submersible Pumpsets - Specification	Amendment No. 6, December 2013	31 May, 2014
12.	IS 14276 : 1995 Cement bonded particle board - Specification	Amendment No. 5, February 2014	31 May, 2014
13.	IS 14587 : 1998 Prelaminated medium density fibre board - Specification.	Amendment No. 6, December 2013	31 May, 2014

Copy of these Standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram. On line purchase of Indian standard can be made at :<http://www.standardsbirs.in>.

[Ref : PUB/GN-2 : 2]

KALA MADHAVI VARIAR, Director (Foreign Languages and Publications)

नई दिल्ली, 27 मई, 2014

**का.आ. 1695.—**भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गये हैं।

### अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या	स्थापित तिथि	भारतीय मानक (कों) जो कि रद्द होने हैं, अगर हैं, की संख्या वर्ष और शीर्षक	रद्द होने की तिथि
(1)	(2)	(3)	(4)	(5)
1.	आई एस 2112 : 2014 चाँदी एवं चाँदी मिश्र धातुएँ आभूषण/शिल्पकारी - शुद्धता एवं मुहरांकन - विशिष्ट (तीसरा पुनरीक्षण)	30 अप्रैल 2014	आई एस 2112 : 2003	30 जुलाई, 2014

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुरशाह जफर मार्ग, नई दिल्ली-110 002 क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों: अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूर्णे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं। भारतीय मानकों को <http://www.standardsbis.in> द्वारा इंटरनेट पर खरीदा जा सकता है।

[संदर्भ : पीयूबी/एसटीडी/2 : 3]

कला एम. वारियर, निदेशक (विदेशी भाषा एवं प्रकाशन)

New Delhi, the 27th May, 2014

**S.O. 1695.**—In pursuance of Clause (b) of sub-rule (1) of Rules 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the second column of Schedule hereto annexed has been established on the date indicated against it in third column. The particulars of the standards, if any, which are given in the fourth column shall also remain in force concurrently till they are cancelled on the date indicated against them in the fifth column.

### SCHEDULE

Sl. No.	No. & Year of the Indian Standards Established	Date of Establishment	No. & Year of the Indian Standards to be cancelled, if any	Date of cancellation
(1)	(2)	(3)	(4)	(5)
1.	IS 2112 : 2014 Silver and silver alloys, Jewellery/Artefacts - Fineness and Marking - Specification (Third Revision)	30 April, 2014	IS 2112: 2003	30 July, 2014

Copies of these standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi - 110002 and Regional Offices : Kolkatta, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Kochi.

[Ref : PUB/STD/2 : 3]

KALA M. VARIAR, Director (Foreign Languages and Publications)

**श्रम एवं रोजगार मंत्रालय**

नई दिल्ली, 22 मई, 2014

**का.आ. 1696.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डायरेक्टर, प्रसार भारती, ब्राडकास्टिंग कारपोरेशन ऑफ इंडिया, दूरदर्शन केन्द्र के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 16/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 20/5/2014 को प्राप्त हुआ था।

[ सं. एल-42012/2/2006-आईआर (डीयू) ]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

**MINISTRY OF LABOUR AND EMPLOYMENT**

New Delhi, the 22nd May, 2014

**S.O. 1696.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. 16/2006) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Director, Prasar Bharati, Broadcasting Corporation of India, Doordarshan Kendra and their workmen, which was received by the Central Government on 20/5/2014.

[No. L-42012/2/2006-IR(DU)]

P. K. VENUGOPAL, Section Officer

**ANNEXURE**

**CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT, LUCKNOW**

**Present :**

Dr. MANJU NIGAM, Presiding Officer

**I.D. No. 16/2006**

**Ref. No. L-42012/2/2006-IR(DU) dated: 14.06.2006**

**BETWEEN**

Shri Lalit Chandra Mishra,  
R/o 13/200, Indira Nagar,  
Lucknow

**AND**

1. The Director, Prasar Bharati,  
Broadcasting Corporation of India,  
Doordarshan Kendra  
24, Ashok Marg,  
Lucknow

2. The Director General, Prasar Bharti,  
Doordarshan Broadcasting Corpn. of India,  
Doordarshan, Doordarshan, Mahanideshalaya  
Copernicus Marg, Mandi House,  
New Delhi.

**AWARD**

1. By order No. L-42012/2/2006-IR(DU) dated: 14.06.2006 the Central Government in the Ministry of Labour, New Delhi in exercise of the powers conferred by clause (d) of sub-section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Shri Lalit Chandra Mishra, R/o 13/200, Indira Nagar, Lucknow and the Director, Prasar Bharati, Broadcasting Corporation of India, Doordarshan Kendra, 24, Ashok Marg, Lucknow & the Director General, Prasar Bharti, Doordarshan Broadcasting Corpn. of India, Doordarshan, Doordarshan, Mahanideshalaya, Copernicus Marg, Mandi House, New Delhi for adjudication.

2. The reference under adjudication is:

“WHETHER THE ACTION OF THE MANAGEMENT, DOORDARSHAN KENDRA LUCKNOW/NEW DELHI IN TERMINATING THE SERVICES OF SHRI LALIT CHANDER MISHRA, CASUAL FLOOR ASSISTANT, W.E.F. 12.7.2001 IS JUST AND LEGAL? IF NOT, TO WHAT RELIEF THE WORKMAN IS ENTITLED?”

3. The case of the workman, Lalit Chandra Mishra, in brief, is that he was engaged by the opposite party as Casual Floor Assistant 21.10.1983 and he worked regularly up to 21.07.2001. It has been submitted by the workman that there had been a scheme for regularization of the casual employees dated 09.06.1992, 17.03.1994 and 05.07.1994; but the management did not regularize his services stating that the workman was found over age. It has been alleged by the workman that the management terminated his services on 21.07.2001 without following the due procedure as contained in Section 25 F of the I.D. Act, 1947. Accordingly, the workman has prayed that the action of the management in denying him regularization be declared illegal and he be regularized into the services.

4. The management of the Doordarshan has denied the claim of the workman by filing its written statement; wherein it was submitted that the workman had never been appointed as a casual artist adhoc or otherwise, no appointment letter was issued to the workman, therefore, there is no question of termination or retrenchment of his services w.e.f. 21.07.2001. It was submitted that the workman was engaged for short spells to carryout casual nature of work purely on the basis of actual requirement of programme production for not more than 10 days in a month. It was further submitted that the workman's case was considered for regularization, in terms of regularization

scheme dated 09.06.1992 as well as the modified scheme dated 17.03.1994 and 05.07.1994, but he was found ineligible being over age in terms of scheme dated 09.06.1992, therefore, he could not be regularized. It is also submitted that all those who were regularized by the management were regularized in accordance with regularization scheme dated 09.06.1992 and 17.03.1994. Accordingly, the management of the Doordarshan has prayed that the claim of the workman be rejected being devoid of merit.

5. The workman has filed its rejoinder wherein he has stated that his date of birth is 14.05.1959 as per his matriculation certificate and as per Rules the age limit for the post of Production Assistant is 21-30 years. It was further stated that the case of Smt. Dixit whose date of birth and date of initial engagement was 26.07.61 and 12.02.91 respectively, was considered for regularization, in terms of scheme dated 09.06.92, as per direction of Hon'ble CAT, Lucknow in O.A. No. 500/95 vide order dated 08.11.2001 and she was given age relaxation of one year. Rest is mere reiteration of the averments already made in the statement of claim.

6. The parties have adduced documentary as well as oral evidence in support of their respective cases. The workman has examined himself whereas the management has examined Shri G.P. Pandey, Senior Administrative Officer in support of their pleadings. The parties availed opportunity to cross-examine the witnesses of each other. The workman forwarded its oral arguments; but the management refrained to argue its case in spite of ample opportunities have been forwarded to them; accordingly, the case was heard ex-parte against the management. .

7. Heard the authorized representative of the workman alone and gone through entire evidence available on record.

8. The workman's representative has submitted that the workman has been engaged as Casual floor Assistant by the opposite party on 21.10.1983 and worked as such till 21.07.2001 regularly when his services have been terminated by the opposite party without assigning any rhyme or reason or any notice pay or any notice pay in lieu thereof in contravention to the provisions contained in the Section 25 F of the I.D. Act. He has also argued that when he was in service the management devised a scheme for regularizing the casual artists, vide dated 09.06.92 and thereafter modified scheme vide dated 17.03.94 and 05.07.94, who worked as casual artists with the opposite party as on 31.12.1991; but the management did not regularize his services in spite of the fact that he was fully eligible within the terms and conditions of the said regularization schemes. The workman has argued that the management did not extend the benefits of the regularization to him taking excuse that he was over age; but he was well under age when joined the opposite party and also after giving

him age relaxation as provided in the regularization scheme his services would have regularized. It is also argued that the management was required to regularized the seniors first and for this the management was ought to maintain seniority list/muster roll as envisaged under the provisions contained in the Section 25 D of the Act; but the management not only failed to comply with the provisions of the Section 25 D of the Act; but also regularized many juniors viz. Shri Umesh Chandra Mihra, Mo. Nasir, Rakesh Kumar Kukreti, Ramesh Chandra Shukla, Mueen Ansari, Sishir Kumar Singh, Atul Mishra, Smt. Rekha Gupta, Smt. Seem Kazmi and Anjali Dixit, ignoring the workman. In this regard the workman has relied on the decision of Hon'ble Apex Court in Union of India Vs. Rakesh Kumar Kukreti and others in Civil Appeal No. 1122-1136 of 1999.

9. Per contra, the management's case is that the workman was never appointed by it; rather he was engaged by the management to perform the work of casual nature as and when required, in short spells. His engagement ended with the end of work/engagement period; therefore, there is no question of terminating his services at any point of time. It was further pleaded that the case of the workman was considered for regularization, within the terms and conditions provided under the regularization schemes dated 09.06.92, 17.03.94 and 05.07.94; but he could not qualify for the same, even after giving him permissible age relaxation.

10. I have given my thoughtful consideration to the submissions of the authorized representative of the workman scanned entire evidence available on record.

11. In the present case, admittedly, there was no regular appointment of the workman and he was engaged by the opposite party management on casual basis to work as Casual Floor Assistant for specified time period on fixed payment. He was also given breaks and or his engagement used to come to an end with the end of the specified work/period.

It has come into the pleadings and evidence of the parties that in pursuance to the directions of the Central Administrative Tribunal, Principal Bench, New Delhi vide their order dated 14.02.92 in O.A. No. 563/86 between Anil Kumar Mathur Vs. Union of India, a scheme for regularization of casual artists in Doordarshan was launched vide Office Memorandum dated 09.06.1992, which was further modified vide office memorandum dated 17.03.94 and 05.07.94. All the Casual Artists who were employed on casual basis on 31.12.1991, including those who were on the rolls of the Doordarshan, though they may not be in services at that time were eligible for consideration. In this regard the workman's case is that the management regularized other juniors, sparing him in spite of the fact that he fulfilled the eligibility criteria of the scheme; and in rebuttal the management witness has stated that the Hon'ble Supreme Court vide order dated 20.03.2002

in Civil Appeal No. 1122-1136 directed the management to decide the cases of the casual artists in accordance with the regularization scheme dated 09.06.92 and thereafter modified scheme vide dated 17.03.94 and 05.07.94. The workman was a party in the said SLP; and accordingly, his case was taken up by the management in terms of scheme dated 09.06.92; but he was not found eligible for regularization even after giving him age relaxation.

12. The workman has relied on order of Hon'ble Supreme Court in Civil Appeal No. 1122-1136 of 1999 between Union of India & others Vs. Rakesh Kumar Kukreti & others; wherein Hon'ble Apex Court has observed that the questions raised in the appeals are squarely covered by a decision of the Court in *Director, Doordarshan Kendra, Trivandrum and others Vs. S. Kuttan Pillai and others (1998) 8 SCC 736*. Hon'ble Apex Court in Kuttan Pillai case, while deciding the case, where norms for relaxation of age for the purpose of regularization and for the purpose of recruitment were different in respect of respondent Floor Assistants engaged on casual basis in the Doordarshan Kendra, Trivandrum seeking regularization, held that the relaxation in age could be granted to the respondents only in accordance with the scheme notified by the OM dated 09.06.1992 as modified by OMs dated 17.03.1994 and 05.07.1994.

13. Thus, the point for consideration is whether the workman was eligible for regularization in terms of the regularization scheme dated 09.06.92 and thereafter modified vide dated 17.03.94 and 05.07.94. For apt appreciation of the case of the workman regularization on merit it would be necessary to quote the salient features of the relevant regularization schemes dated 09.06.92, 17.03.94 and 05.07.94.

"No. 1516/2(3)

Dated: 09.06.1992

#### **Office Memorandum**

**Subject :** Scheme for Regularization of Casual Artists in Doordarshan.

#### **Annexure to the above OM.**

Scheme for regularization of casual erstwhile staff Artists in Doordarshan as per the judgment in OA No. 563/86, dated 14.2.1992 in M/s Anil Kumar Mathur Vs. UoI case.

1. This scheme would be applicable to all those Casual Artists who were employed on Casual basis on 31.12.1991 including those who were on the rolls of the Doordarshan, though they may not be in services now will be eligible for consideration. Those who are engaged on casual basis after 31.12.1991 will not be eligible for consideration.

2. Only those Casual who had been engaged for an aggregate period of 120 days in a year (calendar year) will be eligible for regularization. The broken period in between the engagement and disengagement will be ignored for the purpose. The number of days is to be computed on the basis of actual working days in the muster rolls or attendance sheets or Q-sheets.
3. Separate eligibility panels will be prepared for each category of posts, Kendra-wise, depending upon the length of service of Casual Artists. They will be considered for regularization in the order of their seniority against the available vacancies in that particular Kendra. The seniority will be determined from the date of their initial engagement by the Kendra.
4. The persons who are in the eligibility panel of one Kendra will have no right for claiming regularization in another Kendra as these are generally Group 'C' posts and selection is made Kendra-wise.
5. The Casual Artists who are to be regularized should possess the requisite educational qualification and/or experience as stipulated in the Recruitment Rules of other administrative instructions (in the absence of Recruitment Rules) existing for the post when the casual worker was initially engaged.
6. The upper age limit would be relaxed to that extent of service rendered by the Casual Artists at the time of regularization. A minimum of 120 days service in the aggregate, in one year, shall be treated as one year's service rendered for this purpose. The service rendered for less than 120 days in a year will not qualify for age relaxation.
7. The regularization of Casual Artists would be from prospective date and the Casual Artists on the eligibility panel who fail to qualify for regularization in accordance with the recruitment rules and instructions issued there under for the post, shall be removed from the panel.
8. If a Casual Artist on an eligibility panel commits a mis-conduct and the same is ..... would not be eligible for regularization.
9. Till all the Casual Artists .....no panel of eligible Casual Artists."

"No. 2(J)/-S.1

Dated: 17.03.1994

**Office Memorandum**

**Sub :** Scheme for regularization of Casual Artists in Doordarshan

1. The undersigned is directed to invite attention to DG:D.O.M. of even number dated 09.06.92 on the above subject, with which a copy of the scheme for regularization of Casual Artists of Doordarshan was circulated. According to condition in para 2 of the scheme, the number of days for the purpose of regularization is to be computed on the basis of actual working days in the Muster Rolls or Attendance Sheets or 'Q' sheets.

2. It has been brought to the notice of this Directorate that although these Casual Staff Artists were engaged for 10 days or have been working on 2-3 assignments in a month on a consolidated amount of Rs. 400-500 per assignment, but in actual practice, they have been working throughout the month. This aspect has been examined by the Directorate in consultation with Ministry of I&B and procedure to be followed for arriving at the number of days of casual working will be as under.

3. The number of days for the purpose of regularization will be computed on the basis of actual wages given to the prevalent in the State during the relevant time of working. For example, if a Casual Staff Artist has been paid an aggregate sum of Rs. 1500 in a month whether for working for 10 days or for 2-3 assignments in a month and the minimum wage prevalent in the State at the relevant time was Rs. 50, the staff artists would be deemed to have worked for 30 days in a month (i.e. Rs. 1500 divided by 50) subject to the condition that the days so computed would not exceed 25 days in a month.

4. It has also been noticed that certain staff artists were engaged initially when they were over-age according to the Recruitment Rules. All such cases, with the number of days they worked on casual basis according to the formula laid down in Para 3, should be referred to the Directorate for taking a decision on merit."

"No. 4(1)/94-S.I.

Dated: 05.07.94

**Office Memorandum**

**Subject :** Regularization of Casual Artists as per revised Scheme dtd.13.-.94

The attention of all Doordarshan Kendras is invited to this Directorate's Memo No. 2(3)/86-S.I., dated 17.03.1994, copy enclosed, on the above subject. Various Doordarsan Kendras have sought certain clarifications on a number of points in regard to Revised Scheme, these points are clarified as under :

- (a) Kendras are competent to prepare the eligibility list of Casual Artist in accordance with Para 3 of

the Revised Scheme and regularize them against available vacancies in their respective category on the basis of seniority.

- (b) ....
- (c) The crucial date for the purpose of calculation of age is the same as in 1992 Scheme, i.e. 09.06.92 and there is no change in it.
- (d) For the purpose of age relaxation, the number of days engagement should be taken into account up to 09.06.92. The period of engagement, if any, beyond 09.06.92 in the year 1992 should not be counted for the purpose of age relaxation.
- (e) Casual Artists who have worked for 120 days in any calendar year as per revised scheme till up to the period ending on 31<sup>st</sup> December, 1991 should be considered for regularization. The casuals who have completed 120 days after 31.12.1991 are not currently counted for regularization.
- (f) ....
- (g) ....
- (h) The rates of wages prevalent by the State Government from time to time by way of minimum wage Act in which Kendra concerned falls, are to be taken for calculation of number of days of Casual Artists at that Kendra. The total amount paid to an individual Casual Artist during the month are to be divided by per day rate of payment of minimum wage for calculation of number of days in a month. The classification in different scales of pay/fee in Group 'C' and 'D' etc. is not required. The maximum number of days so calculated should be restricted to 25 days in a month.
- (i) ....
- (j) Where the minimum wage Act prior to 01.05.1989 are not prescribed and available, the computation of number of days should be done by the following formula:-

Total amount paid during the month/30 = Amount for one day.

The maximum number of days so arrived at should be restricted to 25 days in a month only."

A bare perusal of the above office memorandums shows that the benefit of the regularization scheme dated 09.06.92 was available to those casual artists who were employed on casual basis as on 31.12.1991 and were engaged for an aggregate period of 120 days in a calendar year. Also, the casual artist should have been in possession of requisite education qualification and

experience. Also, they should have been within the upper age limit, which was relaxable to the extent of services rendered by the casual Artist at the time of relaxation i.e. on 31.12.1991. However, the modifications to the scheme dated 09.06.92 were issued vide scheme dated 17.03.94 and 05.07.1994; but the crucial date for eligibility and for the purpose of calculation of age and age relaxation etc. remained same as that in the scheme dated 09.06.92.

14. Now, entering into the merit of the case, the matter has to be examined as to whether the workman was eligible for regularization within the terms and conditions of the above quoted schemes. In this regard the case of the workman is that he was engaged on 14.12.1984 as Casual Floor Assistant, when he was well within the age as prescribed in the Rules. He has filed photocopy of his matriculation certificate wherein his date of birth is mentioned as 14.05.1959/03.09.1956. He has also filed photocopy of advertisement seeking application for the post of Production Assistant; wherein the prescribed age limit for the post has been mentioned as 21-30 years. Therefore, it comes out that when the workman was engaged initially he was well within the prescribed age for the post; but when the scheme for regularization dated 09.06.92 came into force he had become over age on the crucial date of eligibility i.e. on 09.06.92; then he was approximately of 33 years 01 month and 26 days' age. It has been pleaded by the management that the case of the workman was considered in the terms of scheme dated 09.06.92, 17.03.94 and 05.07.94; but he could not get the benefit of regularization being overage by 25 days on 09.06.1992. In this connection, it is pertinent to mention here that as per age relaxation clause provided in the scheme, a casual artist can get age relaxation with respect to the upper age limit, to the extent of services rendered by him at the time of regularization. As per scheme, for upper age relaxation, a minimum of 120 days service in the aggregate, in one year, was required to be treated as one year's service rendered for this purpose, service rendered for less than 120 days in a year were not be considered for age relaxation. The workman has alleged that the management did not give any weightage for the services rendered by him for considering age relaxation, which resulted into his disqualification for the regularization. In this respect, the management of the Doordarshan in its evidence has stated that the workman was provided age relaxation of two years even then he could not qualify the terms of regularization being over age.

15. The workman in his pleadings, pleaded that he was within the age limit when initially engaged; but got over age during his engagement. He has further pleaded that had he been given age relaxation, he would have come within the ambit of the regularization scheme. This pleading of the workman has been denied by the

management through pleadings as well as in its evidence with specific statement that the workman was given age relaxation of three years since he had completed 200 days in the year 1984, 214 days in the year 1985, 236 days in the year 1986 and 39 days in the year 1987; even then he failed to qualify for regularization as per regularization schemes. As per settled law, the initial burden was on the workman to prove before this Tribunal that he was eligible for age relaxation and for this he was required to prove, through cogent evidence, that he actually worked for 120 days in aggregate in a calendar year for seeking age relaxation in order to come within the purview of terms of regularization scheme.

In this regard it is noteworthy to mention that from the advertisement of the post it is clear that the prescribed upper age limit for the post is 30 years and as per matriculation certificate, filed by the workman, his date of birth is 14.05.1959, which goes to show that his age on the cutoff date as per regularization scheme i.e. 09.06.92 was 33 years 01 month and 26 days. Therefore, it is apparent that the workman was over age by 03 years 01 month and 26 days. Also, as per pleadings and statement of the management witness, the workman was permitted three years' age relaxation as he worked for 200 days in the year 1984, 214 days in the year 1985 and 236 days in the year 1986.

16. For calculating 120 days working a formula has been enumerated in the scheme dated 17.03.1994 vide para 03 as under:

“3. The number of days for the purpose of regularization will be computed on the basis of actual wages given to the prevalent in the State during the relevant time of working. For example, if a Casual Staff Artist has been paid an aggregate sum of Rs. 1500 in a month whether for working for 10 days or for 2-3 assignments in a month and the minimum wage prevalent in the State at the relevant time was Rs. 50, the staff artists would be deemed to have worked for 30 days in a month (i.e. Rs. 1500 divided by 50) subject to the condition that the days so computed would not exceed 25 days in a month.

The above method of calculating the working days is based on the monthly payment made to a casual artist divided by minimum wages prevalent in the State at the relevant time. Admittedly, the workman worked with the management, intermittently; but the workman has not given any detail for his working. However, he has provided details of payment received by him vide paper No. 6/6, which reflects the payment received by him from the management since his initial date of engagement i.e. from 21.10.1983 to 11.07.2000 as under :

Year	Paid amount in the year
21.10.1983	Rs. 708/-
1984	Rs. 6,402/-
1985	Rs. 3036/-
1986	Rs. 3,244/-
1987	Rs. 588.75
1996	Rs. 2625/-
1997	Rs. 3500/-
1998	Rs. 10,000/-
1999	Rs. 24,000/-
2000	Rs. 32,200/-
11.07.2001	Rs. 19,950/-

Per contra, the management has pleaded in para 04 of its written statement that the services of the workman were obtained in different spells as per details given hereunder :

Year	No. of days worked
1984	200
1985	214
1986	236
1987	39

The above working days has not been controverted by the workman. Hence, from perusal of the above working details given by the management, it comes out that the management had granted three year's age relaxation in terms of scheme for regularization. The above working details given by the management matches the payment/working details provided by the workman vide paper No. 6/6; wherein he has given details of payment received by him in the years 1984 to 1987. Moreover, he has also given details of payment in successive years i.e. from 1996 to 20.07.2001 (alleged date of termination). On going through the payment details the payment received by the workman seems proportionate to the working details given by the management in its written statement. Here it is pertinent to mention that regularization scheme dated 09.06.1992 vide para 01 provides that the scheme shall cover only those artists who were on the rolls of Doordarshan on 31.12.91, though they may not be in service then will be eligible for consideration. It was specifically mentioned therein that those who are engaged on casual basis after 31.12.1991 will not be eligible for consideration. The relevant para is reproduced as under :

1. This scheme would be applicable to all those Casual Artists who were employed on Casual basis on 31.12.1991 including those who were on the rolls of the Doordarshan, though they may

not be in services now will be eligible for consideration. Those who are engaged on casual basis after 31.12.1991 will not be eligible for consideration.

Moreover, the provisions of age relaxation were further clarified vide scheme dated 05.07.1994 which provided that the any working/period of engagement after 09.06.1992 should not be counted for the purpose of age relaxation. The above provision vide scheme dated 05.07.1994 is as under :

- (d) For the purpose of age relaxation, the number of days engagement should be taken into account up to 09.06.92. The period of engagement, if any, beyond 09.06.92 in the year 1992 should not be counted for the purpose of age relaxation.

Hence, it is crystal clear that for considering the working for seeking age relaxation under regularization scheme, the working up to 09.06.1992 was relevant and rest working, if any, was of no use. Here it is the clear case of the management that the workman worked for four years i.e. in the year 1984 to 1987 in the relevant period. However, the workman has taken into account his working in the year 1983 also. From the perusal of working details and the details of payment provided by the workman, the relevant period for consideration of age relaxation comes to three years i.e. from 1984 to 1986 and the rest of the working relied on by the workman in the year from 1996 to 2001 was irrelevant in view of provisions vide para (d) of scheme dated 05.07.1994. Hence, the management rightly did not consider the working of the workman for the years from 1996 to 11.07.2001, as claimed by him for granting age relaxation. It is also established that the management was just in giving three years' age relaxation only to the workman on the basis of his working with the Doordarshan and its action in not regularizing the services of the workman in terms of regularization schemes dated 09.06.1992 and the modified schemes dated 17.03.1994 and 05.07.1994 being over age was not illegal.

17. As regard termination of the workman on 12.07.2001, the management has pleaded that the workman was never appointed by the opposite party; rather he was engaged for short spells on casual basis as and when required by it. This fact is admitted by the workman in pleadings as well as in his evidence. Moreover, the workman himself has filed offer letters which goes to show that he was engaged by the management for specified time, therefore, disengagement on completion of task does not amount to termination of services.

18. The workman pleaded that the management has terminated his services without complying with the provisions of Section 25 F of the Act. In this regard the burden lies upon the workman to prove that he has worked for 240 days in preceding one years from the date of alleged

termination as per provision of the Act and as per law laid down in 2005 (107) FLR 1145 (SC) Surenderanagar Panchayat and another v. Jethabhai Pitamberbhai; wherein Hon'ble Apex Court came to the conclusion that where the workman failed to prove that he had been in employment with the employer for a period of 240 days uninterruptedly, he is not entitled to the protection, in compliance of section 25 – F of the Industrial Disputes Act, 1947. It was held by the Hon'ble Supreme Court that the scope of the enquiry before the Labour Court was confined only to 12 months preceding the date of termination to decide the question of the continuous service for the purpose of section 25-F of the Industrial Disputes Act, 1947. Further, Hon'ble Apex Court has observed as under in the above mentioned case :

“The claimant, apart his oral evidence has not produced any proof in the form of receipt of salary or wages for 240 days or record of his appointment or engagement for that year to show that he has worked with the employer for 240 days to get the benefit under section 25-F of the Industrial Disputes Act. It is now well settled that it is for the claimant to lead evidence to show that he in fact worked for 240 days in a year preceding his termination.”

Therefore, in view of the above referred case law, in order to take any relief for non-compliance of mandatory provisions contained in section 25 F of the Act, it is necessary for the claimant to lead evidence to the effect that he was actually in employment of the opposite party for 240 days in the year preceding his termination and he was actually paid for it. In the instant case although there is pleading that provisions of Section 25 F of the Act, have not been complied with. But, there is no piece of evidence to show that the workman worked for 240 days with the management of Doordarshan in twelve calendar months preceding the date of termination. It is pertinent to mention here that the workman has failed to substantiate this fact that the workman worked for 240 days in a year preceding the date of termination.

19. Thus, in view of the facts and circumstances of the case and the case laws laid down by the Hon'ble Apex Court, I am of considered opinion that the workman's claim for regularization in the services of the Doordarshan not sustainable in the eye of law being beyond the ambit of regularization schemes dated 09.06.1992 and the modified schemes dated 17.03.1994 and 05.07.1994. Accordingly, the reference is adjudicated against the workman, Lalit Chandra Mishra; as such he is not entitled for any relief.

20. Award as above.

LUCKNOW.  
07th May, 2014.

Dr. MANJU NIGAM, Presiding Officer

नई दिल्ली, 22 मई, 2014

**का.आ. 1697.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जनरल मैनेजर, गवर्नर्मेंट ओपियम एवं अल्कालॉयड फैक्ट्री, नीमच के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं त्रिम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/62, 63, 64, 65, 66, 67, 68, 70, 71, 72, 73, 74, 75, 76, 108, 136, 138, 139, 140/2003 एवं संख्या सीजीआईटी/एलसी/आर/71, 72, 73/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20/5/2014 को प्राप्त हुआ था।

[ सं. एल-42012/9/2000-आईआर (डीयू),  
सं. एल-42012/271/99-आईआर (डीयू),  
सं. एल-42012/274/99-आईआर (डीयू),  
सं. एल-42012/278/99-आईआर (डीयू),  
सं. एल-42012/275/99-आईआर (डीयू),  
सं. एल-42012/282/99-आईआर (डीयू),  
सं. एल-42012/11/2000-आईआर (डीयू),  
सं. एल-42012/281/99-आईआर (डीयू),  
सं. एल-42012/279/99-आईआर (डीयू),  
सं. एल-42012/12/2000-आईआर (डीयू),  
सं. एल-42012/269/99-आईआर (डीयू),  
सं. एल-42012/273/99-आईआर (डीयू),  
सं. एल-42012/26/2000-आईआर (डीयू),  
सं. एल-42012/260/99-आईआर (डीयू),  
सं. एल-42012/23/2000-आईआर (डीयू),  
सं. एल-42012/270/99-आईआर (डीयू),  
सं. एल-42012/16/2000-आईआर (डीयू),  
सं. एल-42012/15/2000-आईआर (डीयू),  
सं. एल-42012/27/2000-आईआर (डीयू),  
सं. एल-42012/6/2000-आईआर (डीयू),  
सं. एल-42012/24/2000-आईआर (डीयू),  
सं. एल-42012/13/2000-आईआर (डीयू) ]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 22nd May, 2014

**S.O. 1697.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. CGIT/LC/R/62, 63, 64, 65, 66, 67, 68, 70, 71, 72, 73, 74, 75, 76, 108, 136, 138, 139, 140/2003 and No. CGIT/LC/R/71, 72, 73/2004) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of General Manager, Government Opium and Alkaloid Factory, Neemuch and their workmen, which was received by the Central Government on 20/05/2014.

[No. L-42012/9/2000-IR(DU),  
 No. L-42012/271/99-IR(DU),  
 No. L-42012/274/99-IR(DU),  
 No. L-42012/278/99-IR(DU),  
 No. L-42012/275/99-IR(DU),  
 No. L-42012/282/99-IR(DU),  
 No. L-42012/11/2000-IR(DU),  
 No. L-42012/281/99-IR(DU),  
 No. L-42012/279/99-IR(DU),  
 No. L-42012/12/2000-IR(DU),  
 No. L-42012/269/99-IR(DU),  
 No. L-42012/273/99-IR(DU),  
 No. L-42012/26/2000-IR(DU),  
 No. L-42012/260/99-IR(DU),  
 No. L-42012/23/2000-IR(DU),  
 No. L-42012/270/99-IR(DU),  
 No. L-42012/16/2000-IR(DU),  
 No. L-42012/15/2000-IR(DU),  
 No. L-42012/27/2000-IR(DU),  
 No. L-42012/6/2000-IR(DU),  
 No. L-42012/24/2000-IR(DU),  
 No. L-42012/13/2000-IR(DU)]

P. K. VENUGOPAL, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

SHRI MOHD.SHAKIR HASAN, Presiding Officer

#### CASE NO. CGIT/LC/R/62/2003

Shri Chand Khan,  
 S/o Shri Miya Khan,  
 Kumhara Gali Ke peeche,  
 Gwaltoli, Neemuch (MP) . . . Workman

#### Versus

The General Manager,  
 Govt. Opium & Alkaloid Factory,  
 Neemuch (MP) . . . Management

#### CASE NO. CGIT/LC/R/63/2003

Shri Madhykar Rao,  
 S/o shri Yashwantraoji,  
 Naya Bazar, Khari Kuan,  
 Neemuch (MP)-2 . . . Workman

#### Versus

The General Manager,  
 Govt. Opium & Alkaloid Factory,  
 Neemuch (MP) . . . Management

#### CASE NO. CGIT/LC/R/64/2003

Shri Brijmohan,  
 S/o Shri Kishanlal,  
 Moolchand Marg,  
 Near New Kalali,  
 Neemuch . . . Workman

#### Versus

The General Manager,  
 Govt. Opium & Alkaloid Factory,  
 Neemuch (MP) . . . Management

#### CASE NO. CGIT/LC/R/65/2003

Shri Devaki Nandan,  
 S/o shri shankarlalji,  
 Village Dhaneria Kalan,  
 Neemuch (MP) . . . Workman

#### Versus

The General Manager,  
 Govt. Opium & Alkaloid Factory,  
 Neemuch (MP) . . . Management

#### CASE NO. CGIT/LC/R/66/2003

Shri Ashan Mohd.,  
 S/o shri Khan Mohd,  
 Kumhara gali,  
 Neemuch (MP) . . . Workman

#### Versus

The General Manager,  
 Govt. Opium & Alkaloid Factory,  
 Neemuch (MP) . . . Management

**CASE NO. CGIT/LC/R/67/2003**

Shri Shyamlal,  
S/o Shri Pyarelalji,  
Village Jaisinghpura,  
Neemuch                         ... Workman

**Versus**

The General Manager,  
Govt. Opium & Alkaloid Factory,  
Neemuch (MP)                         ... Management

**CASE NO. CGIT/LC/R/68/2003**

Shri Nandkishore  
S/o Shri Mohandasji Bairagi,  
Jaisinghpura,  
Neemuch (MP)                         ... Workman

**Versus**

The General Manager,  
Govt. Opium & Alkaloid Factory,  
Neemuch (MP)                         ... Management

**CASE NO. CGIT/LC/R/70/2003**

Shri Prahlad Prakash,  
S/o Shri Nandlalji,  
Jaisinghpura,  
Neemuch (MP)                         ... Workman

**Versus**

The General Manager,  
Govt. Opium & Alkaloid Factory,  
Neemuch (MP)                         ... Management

**CASE NO. CGIT/LC/R/71/2003**

Shri Khemraj Sharma  
S/o Shri Bhanwalalji,  
Naya Bazar, Khari Kuan,  
Neemuch (MP)                         ... Workman

**Versus**

The General Manager,  
Govt. Opium & Alkaloid Factory,  
Neemuch (MP)                         ... Management

**CASE NO. CGIT/LC/R/72/2003**

Shri Kishorilal,  
S/o Shri Madanlal Ganchha,  
Naya Bazar, Khari Kuan,  
Neemuch (MP)                         ... Workman

**Versus**

The General Manager,  
Govt. Opium & Alkaloid Factory,  
Neemuch (MP)                         ... Management

**CASE NO. CGIT/LC/R/73/2003**

Shri Mohd.Rafiq,  
S/o Shri Abdul kadar,  
Juna Baghana,  
Neemuch (MP)                         ... Workman

**Versus**

The General Manager,  
Govt. Opium & Alkaloid Factory,  
Neemuch (MP)                         ... Management

**CASE NO. CGIT/LC/R/74/2003**

Shri Gopal Prajapati,  
S/o Shri Rupchandraji,  
Bhoparam Compound,  
Neemuch (MP)                         ... Workman

**Versus**

The General Manager,  
Govt. Opium & Alkaloid Factory,  
Neemuch (MP)                         ... Management

**CASE NO. CGIT/LC/R/75/2003**

Shri Abdul Hameed,  
S/o Shri Abdul Aziz,  
Near Police Station,  
Neemuch (MP)                         ... Workman

**Versus**

The General Manager,  
Govt. Opium & Alkaloid Factory,  
Neemuch (MP)                         ... Management

**CASE NO. CGIT/LC/R/76/2003**

Shri Shankarlal S/o Bagdiram,  
Naya Bazar, Gandha Mohalla,  
Neemuch (MP)                         ... Workman

**Versus**

The General Manager,  
Govt. Opium & Alkaloid Factory,  
Neemuch (MP)                         ... Management

**CASE NO. CGIT/LC/R/108/2003**

Shri Radheshyam,  
S/o Shri Bhuralalji,  
R/o Jaisinghpura,  
Neemuch (MP)                         ... Workman

**Versus**

The General Manager,  
Govt. Opium & Alkaloid Factory,  
Neemuch (MP)                         ... Management

**CASE NO. CGIT/LC/R/136/2003**

Shri Premprakash  
S/o Shri Ratanlalji,  
Bunglow No. 46-A, CRP Road,  
Neemuch (MP) . . . Workman

**Versus**

The General Manager,  
Govt. Opium & Alkaloid Factory,  
Neemuch (MP) . . . Management

**CASE NO. CGIT/LC/R/138/2003**

Shri Gorishankar,  
S/o Shri Gangaram,  
Jaisinghpura,  
Neemuch (MP) . . . Workman

**Versus**

The General Manager,  
Govt. Opium & Alkaloid Factory,  
Neemuch (MP) . . . Management

**CASE NO. CGIT/LC/R/139/2003**

Shri Moin Uddin,  
S/o Shri Surajuddin,  
R/o Old Dhobi Mohalla,  
Neemuch (MP) . . . Workman

**Versus**

The General Manager,  
Govt. Opium & Alkaloid Factory,  
Neemuch (MP) . . . Management

**CASE NO. CGIT/LC/R/140/2003**

Shri Satnarayan,  
S/o Shri Badrilal Mali,  
Juna Baghana,  
Neemuch (MP) . . . Workman

**Versus**

The General Manager,  
Govt. Opium & Alkaloid Factory,  
Neemuch (MP) . . . Management

**CASE NO. CGIT/LC/R/71/2004**

Shri Suresh Chandra,  
S/o shri Lakshminarayan,  
Bholaram Compound,  
Neemuch . . . Workman

**Versus**

The General Manager,  
Govt. Opium & Alkaloid Factory,  
Neemuch (MP) . . . Management

**CASE NO. CGIT/LC/R/72/2004**

Shri Gordhanlal,  
S/o Shri Chunnilal,  
R/o Gram Nandwel,  
Tehsil and Distt. Mandsaur . . . Workman

**Versus**

The General Manager,  
Govt. Opium & Alkaloid Factory,  
Neemuch (MP) . . . Management

**CASE NO. CGIT/LC/R/73/2004**

Shri Arif Khan,  
S/o Shri Yusuf Khan,  
Tada Mohalla,  
Neemuch . . . Workman

**Versus**

The General Manager,  
Govt. Opium & Alkaloid Factory,  
Neemuch (MP) . . . Management

**AWARD**

Passed on this 19th day of September, 2012

1. (a) The Government of India, Ministry of Labour vide its Notification No.L-42012(9)/2000-IR(DU) dated 6-5-2003 has referred the following dispute for adjudication by this tribunal :

“ Whether the action of the management of General Manager, Govt. Opium and Alkaloid Works in terminating the services of Shri Chand Khan S/o Shri Miya Khan w.e.f. 30-6-91 is justified? If not, to what relief the workman is entitled to?”

(b) The Government of India, Ministry of Labour vide its Notification No.L-42012(271)/99-IR(DU) dated 6-5-2003 has referred the following dispute for adjudication by this tribunal :

“ Whether the action of the management of General Manager, Govt. Opium and Alkaloid Works in terminating the services of Shri Madhukar Rao S/o Shri Yashwantraoji w.e.f. 14-12-90 is justified? If not, to what relief the workman is entitled to?”

(c) The Government of India, Ministry of Labour vide its Notification No.L-42012(274)/99-IR(DU) dated 6-5-2003 has referred the following dispute for adjudication by this tribunal :

“ Whether the action of the management of General Manager, Govt. Opium and Alkaloid Works in terminating the services of Shri Brijmohan S/o Shri Kishanlal w.e.f. 4-7-92 is justified? If not, to what relief the workman is entitled to?”

(d) The Government of India, Ministry of Labour vide its Notification No.L-42012(278)/99-IR(DU) dated 6-5-2003 has referred the following dispute for adjudication by this tribunal :

“ Whether the action of the management of General Manager, Govt. Opium and Alkaloid Works in terminating the services of Shri Devaki Nandan S/o Shri Shankarlalji w.e.f. 30-6-91 is justified? If not, to what relief the workman is entitled to?”

(e) The Government of India, Ministry of Labour vide its Notification No.L-42012(275)/99-IR(DU) dated 6-5-2003 has referred the following dispute for adjudication by this tribunal :

“ Whether the action of the management of General Manager, Govt. Opium and Alkaloid Works in terminating the services of Shri Ahsan Mohd. S/o Shri Khan Mohd.w.e.f. 18-7-92 is justified? If not, to what relief the workman is entitled to?”

(f) The Government of India, Ministry of Labour vide its Notification No.L-42012(282)/99-IR(DU) dated 6-5-2003 has referred the following dispute for adjudication by this tribunal :

“ Whether the action of the management of General Manager, Govt. Opium and Alkaloid Works in terminating the services of Shri Shyamlal S/o Shri Pyarelalji w.e.f. 30-6-91 is justified? If not, to what relief the workman is entitled to?”

(g) The Government of India, Ministry of Labour vide its Notification No.L-42012(11)/2000-IR(DU) dated 6-5-2003 has referred the following dispute for adjudication by this tribunal :

“ Whether the action of the management of General Manager, Govt. Opium and Alkaloid Works in terminating the services of Nandkishore S/o Shri Mohandasji Bairagi w.e.f. 30-6-91 is justified? If not, to what relief the workman is entitled to?”

(h) The Government of India, Ministry of Labour vide its Notification No.L-42012(281)/99-IR(DU) dated 6-5-2003 has referred the following dispute for adjudication by this tribunal :

“ Whether the action of the management of General Manager, Govt. Opium and Alkaloid Works in terminating the services of Shri Prahlad Prakash S/o Shri Nandlalji w.e.f. 24-6-91 is justified? If not, to what relief the workman is entitled to?”

(i) The Government of India, Ministry of Labour vide its Notification No.L-42012(279)/99-IR(DU) dated 6-5-2003 has referred the following dispute for adjudication by this tribunal :

“ Whether the action of the management of General Manager, Govt. Opium and Alkaloid Works in terminating the services of Shri Khemraj Sharma, S/o Shri Bhanwalalji w.e.f. 18-7-92 is justified? If not, to what relief the workman is entitled to?”

(j) The Government of India, Ministry of Labour vide its Notification No.L-42012(12)/2000-IR(DU) dated 6-5-2003 has referred the following dispute for adjudication by this tribunal :

“ Whether the action of the management of General Manager, Govt. Opium and Alkaloid Works in terminating the services of Kishorilal, S/o Madanlal Ganchha w.e.f. 30-6-91 is justified? If not, to what relief the workman is entitled to?”

(k) The Government of India, Ministry of Labour vide its Notification No.L-42012/269/99-IR(DU) dated 6-5-2003 has referred the following dispute for adjudication by this tribunal :

“ Whether the action of the management of General Manager, Govt. Opium and Alkaloid Works in terminating the services of Shri Mohd. Rafiq S/o Shri Abdul Kadar w.e.f. 30-6-91 is justified? If not, to what relief the workman is entitled to?”

(l) The Government of India, Ministry of Labour vide its Notification No.L-42012(273)/99-IR(DU) dated 6-5-2003 has referred the following dispute for adjudication by this tribunal :

“ Whether the action of the management of General Manager, Govt. Opium and Alkaloid Works in terminating the services of Shri Gopal Prajapati S/o Shri Rupchandraji w.e.f. 4-7-92 is justified? If not, to what relief the workman is entitled to?”

(m) The Government of India, Ministry of Labour vide its Notification No.L-42012(26)/2000-IR(DU) dated 6-5-2003 has referred the following dispute for adjudication by this tribunal :

“ Whether the action of the management of General Manager, Govt. Opium and Alkaloid Works in terminating the services of Shri Abdul Hameed S/o Shri Abdul Aziz w.e.f. 6-2-93 is justified? If not, to what relief the workman is entitled to?”

(n) The Government of India, Ministry of Labour vide its Notification No.L-42012(260)/99-IR(DU) dated 6-5-2003 has referred the following dispute for adjudication by this tribunal :

“ Whether the action of the management of General Manager, Govt. Opium and Alkaloid Works in terminating the services of Shri Shankarlal S/o Shri Bagdiram w.e.f. 30-6-91 is justified? If not, to what relief the workman is entitled to?”

(o) The Government of India, Ministry of Labour vide its Notification No.L-42012(23)/2000-IR(DU) dated 6-6-2003 has referred the following dispute for adjudication by this tribunal :

“ Whether the action of the management of General Manager, Govt. Opium and Alkaloid Works in terminating the services of Shri Radheshyam S/o Shri Bhurulalji w.e.f. 30-6-91 is justified? If not, to what relief the workman is entitled to ? ”

(p) The Government of India, Ministry of Labour vide its Notification No.L-42012(270)/99-IR(DU) dated 6-8-2003 has referred the following dispute for adjudication by this tribunal :

“ Whether the action of the management of General Manager, Govt. Opium and Alkaloid Works in terminating the services of Shri Premprakash S/o Shri Ratanlalji w.e.f. 30-6-88 is justified? If not, to what relief the workman is entitled to ? ”

(q) The Government of India, Ministry of Labour vide its Notification No.L-42012(16)/2000-IR(DU) dated 6-8-2003 has referred the following dispute for adjudication by this tribunal :

“ Whether the action of the management of General Manager, Govt. Opium and Alkaloid Works in terminating the services of Shri Gorishankar S/o Shri Gangaram w.e.f. 21-7-92 is justified? If not, to what relief the workman is entitled to ? ”

(r) The Government of India, Ministry of Labour vide its Notification No.L-42012(15)/2000-IR(DU) dated 6-8-2003 has referred the following dispute for adjudication by this tribunal :

“ Whether the action of the management of General Manager, Govt. Opium and Alkaloid Works in terminating the services of Shri Moin Uddin S/o Shri Sirajuddin Qureshi w.e.f. 18-7-92 is justified? If not, to what relief the workman is entitled to ? ”

(s) The Government of India, Ministry of Labour vide its Notification No.L-42012(27)/2000-IR(DU) dated 15-9-2003 has referred the following dispute for adjudication by this tribunal :

“ Whether the action of the management of General Manager, Govt. Opium and Alkaloid Works in terminating the services of Shri Satyanarayan S/o Shri Badrilal Mali w.e.f. 14-12-1990 is justified? If not, to what relief the workman is entitled to ? ”

(t) The Government of India, Ministry of Labour vide its Notification No.L-42012(6)/2000-IR(DU) dated 21-6-2004 has referred the following dispute for adjudication by this tribunal :

“ Whether the action of the management of General Manager, Govt. Opium and Alkaloid Works in terminating the services of Shri Suresh Chandra S/o Shri laxminarayan w.e.f. 8-6-91 is justified? If not, to what relief the workman is entitled to ? ”

(u) The Government of India, Ministry of Labour vide its Notification No.L-42012(24)/2000-IR(DU) dated 21-6-2004 has referred the following dispute for adjudication by this tribunal :

“ Whether the action of the management of General Manager, Govt. Opium and Alkaloid Works in terminating the services of Shri Gordhanlal S/o Shri Chunnilal is justified? If not, to what relief the workman is entitled to ? ”

(v) The Government of India, Ministry of Labour vide its Notification No.L-42012(13)/2000-IR(DU) dated 21-6-2004 has referred the following dispute for adjudication by this tribunal:-

“ Whether the action of the management of General Manager, Govt. Opium and Alkaloid Works in terminating the services of Shri Arif Khan S/o Shri Yusuf Khan w.e.f. 30-6-91 is justified? If not, to what relief the workman is entitled to ? ”

2. All the 22 reference cases are taken up together in the ends of justice as all are interconnected with each other which are on a common subject matter and on common issues.

3. The case of all the 22 workmen, in short, is that they are employed separately as casual labour with the management in between the period of 1973 to 1986 on a monthly pay with DA. They had worked continuously and were terminated separately in between the period of 1988 to 1992. They were supplied work almost daily with artificial break of a day or two. They had worked more than 240 days in each calendar year. They had been terminated without complying the provision of Section 25-F of the Industrial Dispute Act, 1947 ( in short the Act 1947 ) as no notice was given nor any retrenchment compensation was paid before termination.

4. The further case of the workmen is that there were permanent/ semi-permanent posts available in the establishment of the management but these workmen were not deliberately classified as such though several requests were made to the management through their Trade Union as well. It is stated that several other casual workers though age barred and juniors to these workmen were made temporary unskilled workers in the pay scale of Rs. 196-232. This arbitrary action of the management was continued in future also. It is stated that the management had employed more than hundred employees at the time of termination of these workmen and violated the provision of Section 25 N of the Act, 1947. The principle of last come

first go was not followed. The action of the management was also of unfair labour practice and victimization. These workmen are unemployed from the date of termination. It is submitted that these workmen be reinstated with full back wages and all other benefits.

5. The management appeared in all the 22 reference cases and filed the same Written Statement in all the cases. The case of the management, interalia, is that Opium and Alkaloid work is involved in the production of Opium and from time to time, on account of volume of work, the management is required to engage the services of casual labour for short and specified period. The casual labours are never engaged indefinitely and their services had been obtained upon the necessity and availability of work. The services of the workmen commenced in the morning of the day they report and it comes to an end at the end of the working day. These workmen were engaged in the same terms and conditions. The workmen were never issued appointment letters and their services were purely on casual basis. The appointment of Class IV employees is required to be done in accordance with statutory recruitment rules. It is submitted that the references be decided in favour of the management.

6. On the basis of the pleadings of the parties, the following issues are framed for adjudication :

- I. Whether the action of the management in terminating the services of the workmen is justified?
- II. Whether the workmen instead of termination were entitled to be made as temporary employees?
- III. To what relief the workmen are entitled?

#### 7. Issue Nos.I & II

Both the issues are taken up together for the sake of convenience. To prove the case, the workmen have given their oral and documentary evidence. In R/62/03, the workman Shri Chand Khan is examined himself. He has supported his case. The management has not cross-examined this witness in spite of given full opportunity and he has been discharged on 10-8-09. His evidence shows that he was engaged on 3-5-1978 and worked continuously till 30-6-91 when he was terminated. He has stated that he had not been given any notice nor any retrenchment compensation before termination. He has further stated at para 3 that juniors to him were made temporary workers vide order dated 15-2-1984.

8. In R/63/03, the workman Madhukar Rao is also examined himself and is discharged without cross-examination on 22-7-2009 as the management has been given opportunity to cross-examine but has not cross-examined him. He has also supported his case that he was engaged in 1977 and worked continuously till 1992. He has stated that one day casual holiday was given in a

month and the amount of provident fund was deducted from his pay. His evidence also shows that he was continuously engaged on monthly payment. He has stated that Jabbar Khan, Deepchand and others after giving them age relaxation were appointed as temporary workers but they had not been considered for temporary/permanent worker. His evidence further shows that Amritlal, Abdul Hamid and Madan were made permanent workers who were juniors to him. He has filed the documents in support of his contention.

9. In R/64/03, the workman Shri Birij Mohan is also examined himself. He has also supported his case. He has stated that he was engaged from 1976 to 1992. He was engaged more than 240 days in a calendar year. He has corroborated the evidence of other workmen. He has proved few employment cards which are marked as Exhibit W/1 series and has also proved few certificates which are Exhibit W/2 series. These documents are filed to show that he was engaged on monthly basis on pay and DA as casual worker. He has supported his case in cross-examination. He has stated that he worked for drying and packing opium and other works too. His evidence shows that he was continuously engaged till his termination.

10. In R/65/03, Deokinandan is also examined himself in the case. He has corroborated the evidence of other witnesses. The management has declined to cross-examine him. He has stated that he was engaged on 18-4-81 and was terminated on 30-6-91 without notice and without payment of retrenchment compensation.

11. In R/66/03, Ahsan Mohammad is also examined himself. This witness has also corroborated the evidence of other witnesses. He was engaged on 19-10-79 and worked more than 240 days in a calendar year till termination on 18-7-1972 without notice and without payment of compensation.

12. In R/67/03, the workman Shri Shyamlal is examined. He has supported his case and has also corroborated the evidence of other workmen. He was engaged on 1986 and was terminated in 1992 as casual labour. He worked more than 240 days in a calendar year. He has proved his few employment cards which are marked as W/1 series. He has proved his employment exchange registration card which is marked as Exhibit W/2. He has stated in cross-examination that he received payment of the days he worked. There is nothing to show that he had not worked 240 days in a calendar year nor the management has challenged that he had not worked 240 days in a calendar year.

13. In R/68/03, the workman Shri Nand Kishore is examined in his case. He has supported his case in his evidence and has corroborated the evidence of other workmen. He has stated that he was engaged on 22-5-83 and worked more than 240 days in a calendar year till

termination on 30-6-91 without notice and without payment of retrenchment compensation. He has supported that the juniors were made temporary worker vide order dated 15-2-84. In cross-examination he has again supported his case. He has stated that he used to do the work of opium as well as other workers. He has been suggested that he had not worked 240 days in a calendar year. The suggestion is no evidence unless it is proved otherwise.

14. In R/70/03, the workman Shri Parladh Parkash is also examined himself. He has supported his case and also corroborated the evidence of other workmen. He has stated that he was engaged in 1986 and worked more than 240 days in each calendar year till termination in the year 1991 without notice and without payment of retrenchment compensation. He has also proved his employment cards which are marked as Exhibit W/1 to W/1(b). He has also proved his Employment Exchange registration card which is marked as Exhibit W/2. He has been cross-examined by the management. He has stated that he worked regularly. He was simply suggested that he had not worked 240 days in a calendar year. His evidence supports his case.

15. In R/71/03, the workman Shri Khemraj Sharma is examined in his case. He has also supported his case and has also corroborated the evidence of other workmen. The management had failed to cross-examine him in spite opportunity was given to the management as such the workman was discharged. His evidence is unrebutted. He has stated that he was working in the establishment of the management from 1986 and continuously worked till 1992. He has not been given any notice before termination. He has further stated that the management had kept in the employment to the junior workers in violation of the Act, 1947. He has stated that circular was issued for regularizing and giving other benefit to the workers but they had not been given such benefits.

16. In R/72/03, the workman Shri Kishorilal is examined . He has also supported his case in his evidence. The management has failed to cross-examine him in spite of opportunity given to him. His evidence is unrebutted. He has also stated that he worked from 31-10-76 to 30-6-91. His evidence has also corroborated the case of other workmen.

17. In R/73/03, the workman Shri Md.Rafique is also examined. He has supported his case. He has stated that he was engaged on 19-10-79 and worked 240 days in every calendar year till termination on 30-6-91 without notice and without any retrenchment compensation. He has also corroborated the evidence of other workmen that the juniors to them were made temporary workers vide order dated 15-2-1984. He has also proved his Employment Cards which are marked as Exhibit -1 series. He has also proved certificates given for his works which are also marked as Exhibit-2 series. He was registered in Employment Exchange and filed his Employment Exchange Card which

is marked as Exhibit-3. He has been cross-examined by the management but he has supported his case in cross-examination. He has stated that he was employed through Employment Exchange.

18. In R/74/03, the workman Gopal Prajapati did not turnup for cross-examination as such his evidence was closed on 14-1-2011 on the submission of his lawyer. This shows that his evidence filed in the case is of no value and it doesnot support his case.

19. In R/75/03, the workman Shri Abdul Hamid is examined in the case. He has supported his case in his evidence and has corroborated the evidence of other workmen. He has also stated that he was engaged in 1980 and worked continuously till 1992. He had worked more than 240 days in each calendar year. He has also supported this fact that the junior casual workers were remained in service than these workmen. He has also proved his certificates and employment card which are proved as Exhibit W/1 series and W/2 respectively. He has been cross-examined by the management but the management has failed to get anything in cross-examination, he has further corroborated his case.

20. In R/76/03, the workman Shankerlal is himself examined in his case. He has supported his case. He has also stated that he was engaged on 24-5-83 and worked 240 days in every calendar year till termination on 30-6-91 without notice. He was not paid any retrenchment compensation. In cross-examination he stated that he did all works of labour and the days of work can be determined from the record. There is nothing in his evidence to disbelieve this witness. The management has also not denied that he was not engaged. His evidence supports his case.

21. In R/108/03, the workman Shri Radhe Shyam is also examined himself in the case. He has also supported his case and also the evidence of other workmen. He has stated that he was engaged on 24-5-83 and worked 240 days in every calendar year till termination on 30-6-91 without notice. He has been cross-examined. He has admitted that he was engaged as casual labour. His evidence shows that he was not engaged as seasonal worker. Moreover there is no case of either of the parties that these workmen were seasonal workers rather the case of both the parties is that they were engaged as casual labours. There is nothing in his evidence to disbelieve this workman.

22. In R/136/03, the workman Shri Prem Parkash is examined in his case. He has stated that he was engagd as casual worker in 1985 and thereafter worked continuously till termination in the year 1988 without notice and without payment of retrenchment compensation. He worked 240 days in each calendar year. He has also supported this fact that the junior workers were made temporary workers.

There is no cross-examination to this witness by the management. Though opportunity was given. Lastly the witness was discharged on 29-9-09. His evidence is unrebutted which is completely in support of the case.

23. In R/138/03, Shri Gauri Shanker is the workman who has deposed in the case. He has also supported his case in his evidence. He was engaged as casual labour in 1983 and worked regularly till 1992. He has also proved his employment cards and certificates which are marked as Exhibit-2 series and Exhibit W/3 respectively. There is nothing in his cross-examination to disbelieve this witness.

24. In R/139/03, the workman Moinuddin has deposed in support of his case. He has stated that he worked from 1979 as casual labour continuously till 1992. He worked more than 240 days in each calendar year. He was terminated without notice and without payment of compensation. He is unemployed since 1992. He was paid on monthly basis with DA. He has stated that Suresh Madho was junior to him and he was made temporary worker. He has further stated that the worker Jabbar Khan was made temporary worker after giving relaxation of his age but this workman was in employment but his case was not considered. The management has not cross-examined in spite of ample opportunity given to him. As such the workman was discharged and his evidence is unrebutted. His evidence completely supports the cases of all the workmen.

25. In R/140/03, the workman Shri Satnarayan Mali has deposed and supported the case. He has stated that he was engaged as casual labour in the year 1969 and worked till 1991. He worked 240 days in every calendar year. He has also given the names of the workers who were made temporary workers by the management. He has also proved his identity card, certificates and employment cards which are marked as Exhibit W/1, W/2 series and W/3 series respectively. He has stated in cross-examination that he was engaged as casual labour when there was need of casual labour. There is nothing to disbelieve his evidence that he did not work 240 days in every calendar year.

26. In R/71/04, the workman Suresh Chand has filed his evidence in the case by affidavit but he did not turn up for cross-examination. As such there is no oral evidence on his behalf.

27. In R/72/04, the workman Gowardhan Lal has supported his case in his evidence. The management has failed to cross-examine this witness though opportunity was given to him. As such the witness was discharged on 22-2-2010. He has stated in his evidence that he was engaged as casual labour in the year 1979 and worked continuously till 1992 when he was terminated without notice and without payment of any compensation. He has also supported the evidence of other workmen. He

has also supported this fact that the juniors were made temporary workers. His evidence is unrebutted.

28. In R/73/04, the workman Arif Khan did not turn up for cross-examination as such his evidence was closed on 21-4-2010. Considering the entire oral evidence, it appears that except Shri Gopal Prajapati, Shri Suresh Chand and Shri Arif Khan, others have supported their case that they were working as casual labour continuously till termination and had worked 240 days in every calendar year. They have also supported the fact that the junior workers were made temporary workers and their cases were not considered by the management arbitrarily.

29. Now let us examine the documentary evidence filed by the workmen in their cases. The workmen have filed employment cards and certificates to show that they were casual labours and were not seasonal workers. Those documents are accordingly marked. These documents are also filed to show that they were on monthly pay and DA and their services were not commenced in the morning of the day they report and came to an end at the end of the working day as has been alleged by the management in his pleading. But those documents clearly shows that they were employed intermittently and were not regularly employed. It is also clear from the employment cards and certificates that they were not employed 240 days in a calendar year and specially for a period of one year during the period of twelve calendar months preceding the date with reference or termination as has been required under Section 25 B of the Act, 1947. Since their services are not termed to be a continuous service for a period of one year, the provision of Section 25-F of the Act, 1947 is not applicable. This shows that the documents do not corroborate the oral evidence of the workmen on the point of continuous service of one year to attract the provision of section 25-F of the Act, 1947.

30. Another question raised by the workmen is that similarly situated other junior casual labours were made temporary workers and these workmen were denied and were not considered. In support of the case, the workmen have filed documentary evidence. The workman have filed the permanent standing orders of Govt. Opium and Alkaloid Factory, Neemuch. The said Standing order is admitted by the management which is marked in R/138/03 as Exhibit W/1. There is classification of workers as Permanent, Temporary and Casual Worker. The said standing order has provided the provision as to how the casual worker is to be made as temporary worker. The clause 2 sub-class III of the standing order runs as follows :

एक आकस्मिक कर्मकार वह कर्मकार है जिसकी नियोजन की प्रकृति विशुद्ध (आकस्मिक) है किन्तु जब कभी अस्थायी वर्ग में रिक्त होती तो तब एक जैसी कुशलता वाले कर्मकारों में से वरिष्ठतम् कर्मकारों को उस पद पर नियुक्त किया जाएगा ।

This shows that on the basis of seniority with other conditions temporary worker be made from casual worker. The workmen have supported in their evidence that the juniors to them, to whom they had taken names, were made temporary workers ignoring their right claim. There is no evidence on the record that till termination of these workmen, the management had prepared any seniority list and at the time the alleged casual labours were made temporary workers, their names were also considered. This clearly shows that there is a violation of the standing order that without preparing any seniority list, the management had made temporary worker in violation of the Standing Orders. Rule 77 of the Industrial Dispute (Central) Rules 1977 also runs as follows :

**“Rule-77- Maintenance of seniority list of workmen-**  
The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice-board in a conspicuous place in the premises of the industrial establishment atleast seven days before the actual date of retrenchment.”

Thus it is clear that the management was duty bound to prepare a seniority list and there is nothing to show that seniority list was prepared by the management before appointing temporary worker from casual worker and before termination to these workmen.

31. To support the contention, the workmen have filed certain documents. The office order dated 15-2-84 is filed in the cases. The management has not denied. The office order shows that Shri Jabbar Khan and 20 other were appointed as temporary unskilled workers in the year 1984. This appears to be in violation of the standing orders. The said order dated 15-2-84 does not show that they were appointed as temporary unskilled worker on the basis of seniority list. The workmen has filed the appointment letter of Jabbar Khan which is Paper No. 13/12 in R/139/03. This appointment letter clearly shows that Jabbar Khan was working as casual labour who was appointed as temporary unskilled worker vide office order dated 15-2-84. This fact clearly shows that casual labour was made temporary unskilled worker but there is nothing to show that any seniority list was prepared before appointing him as temporary unskilled worker. He was appointed along with 20 others. This aspect shows that there was arbitrary action of the management. The workmen have filed a seniority list of 1-1-2002 which are paper Nos. 13/8 to 13/11 in the same case but the said seniority list does not include the names of these workers. These all documents are not denied by the management and are deemed to be admitted. The said seniority list shows that most of the workers of the list were appointed after these workmen

and they were appointed as temporary unskilled labours. The workmen has filed a list of 32 workers appointed as unskilled worker by the management which is Paper No. 13/26 in the said case but there is nothing to show that they had been appointed after preparing a seniority list which was the requirement of the standing orders. The workmen has filed a letter dated 30-3-93 of the management whereby the management asked from the Secretary of the Union to furnish the list of ex-casual workers with documents which is Paper No. 27 and the Secretary of the Union furnished a list of 35 ex-casual workers including these workmen with documents to the management which are paper nos 28 & 29 of the said above case. These documents are also not denied by the management. There is nothing to show that the management had considered these workmen. Thus it is clear from the documentary evidence that there was violation of standing orders in appointing temporary unskilled worker and the management had arbitrarily not considered these workmen though they appear to be senior to those who had been appointed as temporary unskilled workers.

32. On the other hand, the management has examined one witness. No documentary evidence is adduced by the management in the case. Now let us examine the oral evidence of the management. The same evidence of the management witness Shri Jagat Narayan Shukla is filed in all the 20 cases but the evidence is not filed in R/71/04 and 72/04. He was cross-examined in R/74/03, R/75/03, R/76/03, R/108/03 and R/140/03. The management witness has not turned up for cross-examination in R/62/03, R/65/03, R/66/03 and R/73/04. In rest of the cases the learned counsel for the workmen has adopted the same cross-examination as have been done in other cases.

33. The management witness Shri Jagat Narayan Shukla is working as Asstt. Engineer (Electrical) in the Office of General Manager, Govt. Opium & Alkaloid Factory, Neemuch. Initially he has supported the case of the management in examination-in-chief. He has stated that the workmen had never completed 240 days in a calendar year and were not engaged indefinitely. There is no evidence that the junior casual labours were not appointed as temporary unskilled workers in violation with the standing order of Govt. Opium & Alkaloid Factory, Neemuch. There is also no evidence that before appointing the casual labour as temporary unskilled worker, a seniority list was prepared. He has stated at para-8 that he has no knowledge as to how the casual labours were absorbed in the permanent job. This shows that there is no evidence to show that as to how those persons were appointed temporary unskilled labours in the year 1984, 1993 and 2002. This aspect of the case clearly shows that the action of the management was arbitrary and was also unfair-labour

practice and for victimization. He has proved the copy of standing order in R/140/03 and R/138/03. The relevancy of the standing order has already been discussed earlier. He has also stated that the casual labours were engaged on muster roll. He had seen the muster roll at the time of preparing his evidence. He has further stated that the muster roll can determine as to how many days these workmen had worked. The said muster rolls were not produced by the management inspite of direction to produce the same. His evidence on the point of days of work done by the workers are based on muster rolls. Moreover the seniority can be determined from muster roll. As such his oral evidence is not tenable on the said point. Moreover he has stated in the cross-examination that the workmen had not worked 240 days in any calendar year. This fact has been denied by him only on the basis that the workmen have claimed in their pleading that they had worked 240 days in every year. This shows that his evidence is not reliable.

34. To sum up the entire evidence it is clear that the oral evidence of the workman has contradicted from the documentary evidence that they had worked 240 days in each year. Rather the documentary evidence shows that none of the workmen had worked 240 days in twelve calendar year preceding the date of termination or reference to attract the provision of Section 25 B of the Act, 1947. However the workmen have established in their evidence that there was provision in the standing order that a seniority list is to be prepared by the management and thereafter casual worker would be appointed as temporary unskilled worker. It is also established that the management had appointed temporary unskilled labour from casual labour without preparing seniority list ignoring the right claim of these workmen. This shows that the action of the management was arbitrary and unjust to terminate them without considering their case. This is amount to unfair labour practice. It appears that they were entitled to be made temporary unskilled workers before the workers who were already made temporary unskilled labours and thereafter made permanent workers. Both the issues are thus decided in favour of the workmen and against the management.

### 35. Issue No. III

On the basis of the discussion made above, it is clear that the action of the management is not justified in terminating their services instead of appointing them temporary unskilled workers as juniors were appointed temporary unskilled workers. The workmen have pleaded and have adduced evidence that after termination they are unemployed and are not in the gainful employment. This evidence is unrebutted. The management is, therefore, directed to reinstate them with half back wages. Thereafter it is directed to prepare a seniority list in accordance with

the standing orders and to consider their case for temporary unskilled labour, within two months from the date of award after giving relaxation to their age and to appoint them incase juniors have been appointed as temporary unskilled workers. In case any of these workmen have attained the age of superannuation, then the management is directed to pay a compensation of Rupees One Lac (Rs.1,00,000) each to those workmen. Accordingly the reference is answered.

36. In the result , the award is passed without any order to costs.

37. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 22 मई, 2014

**का.आ. 1698.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीपीडब्ल्यूडी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 38 ऑफ 2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20/5/2014 को प्राप्त हुआ था।

[ सं. एल-42011/138/2007-आईआर (डीयू) ]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 22nd May, 2014

**S.O. 1698.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D No. 38 of 2007) of the Central Government Industrial Tribunal/Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of C.P.W.D. and their workmen, which was received by the Central Government on 20/05/2014.

[No. L-42011/138/2007-IR(DU)]

P. K. VENUGOPAL, Section Officer

### ANNEXURE

### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

### Reference No. 38 of 2007

### PARTIES:

Employers in relation to the management of C.P.W.D.

AND

Their workmen

**PRESENT:**

Justice Dipak Saha Ray, Presiding Officer

**APPEARANCE:**

On behalf of the Management	: Mr. Subrata Lahiri, Assistant Engineer (Electrical)
	Mr. B. Ghosh, General Secretary of Contractor's Welfare Committee of Calcutta for M/s. T.K. Enterprise.
On behalf of the Workman	: Mr. S.K. Kar, Regional Secretary (ER) of the Central P.W.D. Workers' Union.
State: West Bengal	Industry: Public Works

Dated: 8th May, 2014.

**AWARD**

By Order No.L-42011/138/2007-IR(DU) dated 07.12.2007 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of M/s. T.K. Enterprise, a contractor of Chief Engineer (Electrical), Eastern Zone, CPWD, in terminating the services of their workman Shri Nirajan Das w.e.f. 24.05.2007 is legal and justified ? If not, to what relief the workman is entitled to ?”

1. The instant reference has arisen at the instance of one Nirajan Das, concerned workman, for termination of his service as a worker (khalasi) under M/s. T.K. Enterprise – an enlisted Electrical Contractor of the Central Public Works Department.

2. The workman's case in its skeletal brevity is that he was employed by M/s. T.K. Enterprise, an enlisted contractor of the CPWD, as a worker (khalasi) for electrical installation and maintenance works in the Central Government Quarters (Residential Complex) of the management of CPWD, 21, Richie Road, Kolkata. It is contended that he was employed in the department of CPWD and continued his service for a considerable period and as such his service was permanent in nature. It is further contended that while discharging his duties with all sincerity and with full satisfaction of all concerned, the said contractor, M/s. T.K. Enterprise, by a letter dated 23.05.2007 disallowed him to enter into the premises of 21, Richie Road, Kolkata and thereby terminated his service on and from 24th May, 2007. By the said letter dated 23rd May, 2007 he was asked to meet the contractor for finalization of his dues. It is alleged that without giving any prior notice he (the workman) was so terminated as he demanded for minimum wages and also other benefits like

E.S.I. benefit, C.P.F. coverage etc. which were extended to the regular employees of the CPWD.

The concerned workman thereafter made several representations to the said contractor for reinstating him in service but to no effect.

It is also the case of the workman that subsequently he was paid Rs.23,298 towards his claim.

3. As against this, the management/employer of the workman namely, M/s. T.K. Enterprise has opposed the claim of the workman by filing written statement contending inter alia that Shri Nirajan Das, the temporary worker (khalasi) of M/s. T.K. Enterprise, was engaged in April, 2007 on 'no work no pay' basis for electrical installation and maintenance jobs at Residential Government Quarters at 21, Richie Road, Kolkata – 700019. It is alleged that the worker used to leave his place of duty between 4.30 P.M. and 5.00 P.M. though he was supposed to leave at 8 P.M. It is further alleged that the contractor after receiving complaint on 23.04.2007 against Nirajan Das from one Mr. Arum Kumar Bit (IAS), President of the Richie Road Resident Officers Association, Central Government Officers Quarters, 21, Richie Road, Kolkata – 700019, the Executive Engineer (Elect), Kolkata, Central Electrical Division No.1, CPWD, Kolkata – 700020 sent a letter to him (contractor) on 15.05.2007 for taking necessary action against the concerned erred workman. Accordingly, as per provision of clause 19-I of the General Conditions of Contract for Central P.W.D. Works, he asked Shri Das to collect his wages and also asked him to tender apology before Mr. Bit so that the matter might be amicably settled. But, Shri Das did not agree with that proposal and for that reason Shri Das was asked not to enter into the premises at the Central Govt. Officers Quarters.

4. By filing Rejoinder, The workman Shri Nirajan Das has submitted that he was a khalasi and was employed by M/s. T.K. Enterprise and his principal employer was KCED-I, CPWD. It has been contended in the rejoinder that after receiving complaint from one Mr. A.K. Bit, one committee of enquiry was set up, but before receiving any report from that committee he was dismissed from service. From the rejoinder it is evident that he has been working under KCED – II Division as a worker under M/s. T.K. Enterprise since 1st February, 2009 and he has already received his due wages Rs.23,298 from his ex-employer. In such circumstances, the workman has prayed for compensation as he suffered mentally and physically for his unemployment during the period from 24.05.2007 to 31.01.2009.

5. In this reference, workman in support of his case has examined three witnesses including himself. Management viz., M/s. T.K. Enterprise has not examined any witnesses. No document whatsoever has been admitted in evidence either on behalf of the workman or

on behalf of the management. Now, on perusal of the evidence of the workman it appears that the witnesses have supported the case of the workman by corroborating the facts as disclosed in the statement of claim and rejoinder of the workman and no new contention has been urged in the said evidence of the witnesses.

6. It has already been pointed out that the management M/s. T.K. Enterprise in its written statement has stated that Shri Das, a temporary worker, engaged for a portion of the day from the month of April, 2007 on 'no work no pay' basis. Shri Das in paragraph 17 of his statement of claim has stated that "It is submitted herein that the workmen employed in the department of CPWD have been engaged in a post having perennial nature of job continued for a considerable period, thus the requirement of such service by the said authority is permanent in nature."

The witnesses also in their evidence have stated that Shri Das was working under the contractor since 2005. But the witnesses have never stated that Shri Das was so working under the said contractor uninterruptedly. No document is also forthcoming to prove that Shri Das started working under that contractor in the year 2005 and since then he so worked uninterruptedly. So there is nothing on record to establish that Shri Das was in continuous service and the same was permanent in nature.

7. Now considering the statement of claim and rejoinder and evidence of the workman and the written statement of the contractor/management with reference to the above discussion it appears that Shri Niranjan Das was a temporary workman (Khalasi) of M/s. T.K. Enterprise and he was not in continuous service as per the provisions of Section 25F of the Industrial Disputes Act, 1947.

8. In this reference, it is admitted that one complaint was made by the President of the Richie Road Resident Officers Association, Central Government Officers Quarters, 21 Richie Road, Kolkata against Shri Das and the same was sent by the Executive Engineer (Electrical) alongwith a letter to the contractor requiring the contractor to take necessary action. And on receiving that letter of the Executive Engineer (Electrical), Shri Das was asked not to enter into his working place and thereby terminated his service.

9. Now it appears from Clause 19-I of the General Conditions of Contract for Central P.W.D. Works 2005 that "The Engineer-in-Charge may require the contractors to dismiss or remove from the site of the work any person or persons in the contractors' employ upon the work who may be incompetent or misconduct himself and the contractor shall forthwith comply with the such requirement."

From this clause it appears that on the allegation of misconduct the contractor is duty bound to dismiss any

workman under his employ as per the direction of the Engineer-in-charge.

10. Considering the facts and circumstances with reference to the said Clause 19-I, it appears that the said termination of service of Shri Das was not illegal and the employer of Shri Das viz. M/s. T.K. Enterprise had no obligation to comply with the provisions of Section 25F of the Industrial Disputes Act, 1947 as the workman Shri Das was not in continuous service as per the provision of Section 25B of the said Act.

11. Considering the facts and circumstances of the case and the evidence on record and in view of the discussion made above it appears that the termination of the workman Shri Niranjan Das cannot be said to be illegal and unjustified.

Admittedly Shri Das has already received his due wages, and as such he is not entitled to get any amount from the management i.e., M/s. T.K. Enterprise.

The reference is disposed of accordingly.

**JUSTICE DIPAK SAHA RAY, Presiding Officer**

Dated, Kolkata,

The 8th May, 2014.

नई दिल्ली, 22 मई, 2014

**का.आ. 1699.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेशन डायरेक्टर, अॅल इंडिया रेडियो (एयर), आकशवाणी के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या सीजीआईटीए-89/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 20/5/2014 को प्राप्त हुआ था।**

[ सं. एल-42011/06/98-आईआर (डीयू) ]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 22nd May, 2014

**S.O. 1699.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D No. CGITA-89/2004) of the Central Government Industrial Tribunal/ Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Station Director, All India Radio (AIR), Akashwani and their workmen, which was received by the Central Government on 20/05/2014.

[No. L-42011/6/98-IR(DU)]

P. K. VENUGOPAL, Section Officer

## ANNEXURE

### **BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD**

#### **PRESENT:**

Binay Kumar Sinha, Presiding Officer, CGIT-cum-Labour Court,

Ahmedabad, Dated 17th March, 2014

**Reference (CGITA) No. 89/2004**

**Reference (I.T.C) No. 48 of 1998 (old)**

**Adjudication order No. L-42011/6/98/IR(DU) dated  
16.06.1998**

Station Director,  
All India Radio (AIR), Akashwani,  
Ashram Road,  
Ahmedabad-380009

...1st party

#### **AND**

Their workman,  
Through the President,  
All Gujarat Kadar Karmachari Union,  
Ashapuri Nagar, Near Swastik Char Rasta,  
Amraiwadi,  
Ahmedabad (Gujarat)-380026

...2nd party

For the First Party : Shri Hitesh D. Kathrotia,  
Advocate

For the Second Party : Shri G. K. Parmar, President, All  
Gujarat Kamdar Karmachari  
Union

#### **AWARD**

The Government of India/Ministry of Labour vide order No. L- 42011/6/98/IR(DU), New Delhi dated 16.06.1998 referred the dispute for adjudication under clause (d) of sub section (1) and sub section (2A) of section 10 of the I.D. Act, 1947 to the Industrial Tribunal, Ahmedabad in respect of the matter specified in the Schedule:-

#### **SCHEDULE**

“Whether the demand of All Gujarat Karmachari Union is proper, legal and justified in demanding regularisation and confirmation of all the daily rated announcers who have put in more than 10 years of service in casual/temporary manner, by the management of All India Radio, Akashwani, Ashram Road, Ahmedabad? If so, what relief the workman concerned (list of casual pronouncer is enclosed) are entitled and from what date ?”

2. The case of the 2nd party Union as per statement of claim (Ext.2) and after amendment of para 3A in the statement of claim (Ext.4) and statement of claim filed after amendment (ext.8) is that casual/temporary announcer as per list are performing the work of announcer in the 1st party organisation A.I.R., Ahmedabad as daily rated for the last 10 years, but the management of the 1st party A.I.R. did not make them permanent due to wrongful act and these casual announcers are leading retched life and were giving false assurance for making them permanent. Then dispute was raised through the Union giving chartered of demand. 1st party organisation did not frame rules and regulation regarding making permanent to casual/temporary announcers appeared in the eligibility test but were not given pass marks and the 1st party organisation is taking undue advantage of poverty and unemployment in the country and in the name of selection process and are accommodating the person who are closely related to the senior officers already working in the All India Radio. One of the casual announcer Shivabhai Laxmanbhai Parmar was appointed as announcer on 01.04.1986 for 6 to 12 days in a month for 10 years and his last wages was Rs. 200 per day. When Shivabhai made grievances in the year 1997 to the management of the 1st party then the 1st party stopped giving him work of casual announcer from 01.08.1997 and since then he is sitting idle, expecting the call of announcer as for 6/12 days in a month. Several junior to Shivabhai Laxmanbhai Parmar have been recruited casually and made permanent. Heena Vaishnav daughter of Shri Vaishnav, Station Director of Doordarshan Kendra, Rajkot was appointed as announcer on permanent basis. Raju Yagnik of Rajkot who is son of announcer Shri Bharat Yagnik working as an announcer at Rajkot, A.I.R., is selected and posted at Ahmedabad. Arti Pandit was initially recruited as casual Announcer and was made permanent. Tejal Bhatt working as casual announcer has been treated as regular employee. Vipul Buch and Sanjay Sagathia have been regularised as announcer. All those were juniors to Shivabhai Parmar but have been regularised as announcers. On these scores, prayer is made to allow the reference and to grant the benefits of regularisation and confirmation as announcer to the workman involved in this reference with back wages and 20% interest and Rs. 15000 as cost of litigation. List of workman announcers involved in this reference case was submitted by the Union(2nd party) vide Ext. 42 showing names of 10 announcers including Sl. No. 1 Shivabhai Laxmanbhai Parmar who demanded for regularisation.

3. As against this the contention of the 1st party as per written statement (Ext.34) is that the reference is not maintainable. The averment of para 1 of S/c is misconceived that casual announcers have been exploited by the management of A.I.R. by way of depriving them of regular permanent job of announcer since based on lack of knowledge of the functioning and social obligations A.I.R..

The case of the 1st party is this that casual announcers are our artists like all other music and drama artist and talkers. All of them cannot claim employment. At no stage casual announcers have been assured by the management of the 1st party for their regularisation in All India Radio. They were free to apply against regular vacancy and get them self selected. Those casual announcers have been paid their due for bookings in A.I.R. as fixed by the organisation from time to time. The post of announcers is one of the categories of regular and permanent staff on the establishment of A.I.R. The procedure for recruitment of announcers at All India Radio involves advertisements, inviting application scrutinizing of applications, selection of eligible candidates, written tests, voice tests and personal interviews. The requirement of the pot of announcers in A.I.R. is considered and arrived at after studying the transmission hours, nature of programme etc and the Director General, Ministry of Information & broadcasting, Ministry of finance etc. The provision of casual announcers is not as a substitute to regular announcers rather to encourage the talents as programme presenters. Casual announcers are empaneled after considering candidate within the city limits of the A.I.R. stations whereas regular vacancies are filled by inviting candidates on All India bases. Casual announcers are not selected against any regular vacancy neither there is any provision in the Rules/regulation for their regularisation. Para 2 of S/c is denied stating that it is not true 2nd party (casual announcers) were appointed as regular Announcers. Para 3 of S/c is denied saying it is not true that 1st party attempted to remove the casual announcers from the post and tried to give him less salary. All India Radio is an essential service and broadcast by A.I.R. stations should be uninterrupted and not to be adversely affected because of man power problem. There cannot be a break or time deviation in broadcast of programme. The announcers are human being and therefore prone to fall ill not being able to report for duty at the eleventh hour. So A.I.R. is duty bound to have some kind of alternate full proof arrangement possible to be activated even at a short notice. So, A.I.R. evolved a system of employment of casual announcer after voice testing and voice's broadcast worthiness who can make themselves available for limited job of making announcement even at the short notice. Casuals are empanelled for stop gap arrangement even when all the posts are filled in the station. Casual empanelment is not against regular vacancy and there is no need to follow the procedure prescribed for regular Announcers. Voice test is essential whether casual or regular announcers. Casual announcers are making announcements on microphone at and for limited purpose and they are required casually not and they are required casually not for more than 6 scattered days in a month by law. Victimisation of casual announcers is denied. On this contention prayer is made to dismiss the reference with costs.

4. It may not be out of place to mention that on filing of statement of claim (Ext.2) on 10.08.1998 by the 2nd party, an amendments application (Ext.4) was filed by the 2nd party on 07.01.1999. On that date an interim application (Ext.5) was also filed by the 2nd party Union supported with affidavit of casual announcer Shivabhai Laxmanbhai Parmar (Ext.6) praying there in for interim direction to the 1st party organisation (A.I.R, Ahmedabad) to give immediate 12 day working as announcer to Shivabhai Parmar was being given prior to 01.08.1997 or to pay wages for minimum days in a month if the 1st party employer does not want to assign the announcement work to Shivabhai Laxmanbhai Parmar. As per Ext.7 1st party submitted adjournment application on 08.03.1999 to file written statement. Then on 19.06.1999 2nd party submitted amended statement of claim (Ext.8) and its copy received on behalf of the 1st party on 05.07.1999. On 02.02.2000 Shivabhai Laxmanbhai Parmar was examined in court (vide Ext.13) by then Presiding Officer, Industrial Court, Ahmedabad namely Shri S.S. Panchal. Thereafter order on interim application (Ext.5) was passed by Shri G.S. Patel then member Industrial Court, Ahmedabad who was in session of this case on 22.01.2001 allowing the interim application ex parte and directing the 1st party to give twelve days works of casual announcer to Shri Shivabhai Laxmanbhai Parmar and to pay the wages. The 1st party (station Director, A.I.R, Ahmedabad) preferred special civil application No. 371 of 2002 against the order dated 22.01.2001 passed on interim application Ext.5 and the operation of order of central Industrial Tribunal, Ahmedabad was stayed till further orders. The concerned casual Announcer Shivabhai Laxmanbhai Parmar had filed misc. civil Application No. 1332 of 2001 against Station Director , A.I.R., Shri Vijay Dixit for his will full and deliberate contempt of court of interim award/Order of Industrial Court on 19.07.2001 for taking action which was heard with Misc. Application No. 80 of 2001 and several other misc. civil application 405 of 001 with misc. civil Application No .1415 of 2000 and order dated 16.03.2002 was passed that the common judgement dated 07.03.2002 was passed misc. Civil Application no. 64,82,117,132 & 186 of 2002 will be made equally/applicable in the present cases also. All these applications are dismissed. As per order dated 07.03.2002 observation had been made that the petitioner can seek appropriate relief in the concerned labour/Industrial court. The Hon'ble High Court of Gujarat in special Civil application no. 371 of 200 passed final oral judgment dated 25.11.2005 directed against the order passed by the Industrial Tribunal, Ahmedabad dated 22.01.2001 below Ext.5 in reference (I.T.C) No. 48/98 and also the order dated 30.08.2001 passed below Ext. 26 to 30 in reference I.T.C. 48/98 . Direction was given at para 5 of the judgment "looking to the overall facts and circumstances of the case, I am of the opinion that instead of deciding the matter on merits, interest of justice would be met by directing the Tribunal to decide the reference

within a stipulated period by continuing the interim relief granted by this court.” At para 6, the Hon’ble Court has been pleased to direct “Accordingly the Industrial Tribunal, Ahmedabad, is directed to hear and dispose of the reference (ITC) No. 48/98 within a period of six months from the date of receipt of writ of this order. The interim relief granted by this court shall be continued till the disposal of the aforesaid reference....” It may be noted that the Presiding officer of Industrial Tribunal in reference I.T.C. 48/98 out of various application Ext. 26 to 30 for restraining the President of Union or its representative to plead the case, to set aside the interim order, to stay the interim order, to condone the delay and to open the stage of filing reply all the applications except which was for opening the stage of reply was rejected.

5. As per rival contention of the parties in the statement of claim and the written statement, the following issues are taken up for discussion and determination:

### ISSUES

- (i) Is this reference maintainable?
- (ii) Have the 2nd party Union/concerned casual Announcer got valid cause of action?
- (iii) Have the concerned contesting casual announcer Shri Shivabhai Laxmanbhai Parmar or any other casual announcer as per list provided by the 2nd party Union vide Ext.42 performed casual works of announcer in A.I.R. (1st party organisation) for 240 days in any calendar year? Whether Shivabhai Parmar contesting casual announcer performed casual work of announcer for 240 days in calendar prior to 01.08.1997, alleging his dated of termination as per his re-examination evidence vide para 8 of Ext.13 on 14.09.2011.?
- (iv) Whether booking of casual announcer Shivabhai L. Parmar or any other announcer as per list (Ext.42) for 6 to 12 days intermittently in a month for the last 10 years give impetus to them for his/their claim of regularisation and confirmation in All India Radio(1st party organisation)?
- (v) Whether the demand of the Union All Gujarat Kamdar Karmachari Union for regularisation and confirmation of daily rated casual announcer is proper, legal and justified?
- (vi) Whether the 2nd party/Union/any concerned daily rated announcer is entitled for the relief as claimed?

### FINDINGS

**6. ISSUE NO. iii, iv & v :** Shivabhai Laxmanbhai deposed in examination in chief (Ext.13) on 02.02.2000 that he was engaged from 01.04.1986 as casual announcer in All India Radio, Ahmedabad. He was in casual announcer category. Shri Bharti Pandit and Tejas Bhatt who were

also casual announcer and junior to him were made regular. He has submitted six documents in support of his claim for regularisation as per list Ext.10. Those papers/documents have been given pucca Exts. 15 to 20. During cross Examination by Shri H.D. Kathrotia, 1st party lawyer, he stated vide para-2 he was working as announcer in A.I.R. and he was getting wages for the days he was engaged. He admitted it is true that vacancies in All India Radio was being advertised in newspaper inviting applications from suitable candidates and there after interview is being conducted and there after selection committee select the eligible candidate. He claimed that his selection/appointment was made through this mode of selection but he failed to submit any appointment letter as to selected candidate. He conceded that he has no any paper to substantiate his claim as selected candidate on regular basis vide para 2 of cross examination he stated that station director of All India Radio has power to regularise the temporary announcer. But he conceded that he has not challenged the rules and regulation of regular selection/recruitment made in the All India Radio. He states that he has given eligibility test in 1986 and again volunteers on two years interval tests are being taken. Vide para 3 he admitted that he had given eligibility test for regular appointment but he did not pass the test that those who have passed the test he does not know their names. Besides him how many persons were in the category of casual/temporary announcer he does not know and cannot tell their names vide para 4 he stated that A.I.R. is a Government organisation, he does not know that there is partial (limited recruitment) process in A.I.R. Though he claimed that he got appointment letter of temporary announcer on 01.04.1986 and was given appointment letter but he failed to submit any appointment letter to discredit the stand of 1st party that he (Shivabhai) was casual worker on call in the need of hour as stop gap arrangement he was called in A.I.R., Ahmedabad for limited job. Regarding Ext.15 to 20 produced by him as per list Ext. 10, he says that those papers are for his job of casual announcer for 12 days each in the months which was given by the 1st party and he got wages for the days of work. Even if it is presumed that witness Shivabhai worked for 12 days in month from 1986 till July 1997, he never completed 240 days’ work in any Calendar year in the year preceding his alleged termination or stopping to give him work from 01.08.1997. But it can be said that notionally he completed 240 days of skilled work of an artist in performing announcer ship because of always his wishes to perform as an artist in A.I.R. though casual announcer on examination of Ext.15 to 20 it appears that he was not given 12 days works as per booking in every month. Ext. 15 to 20 are papers of All India Radio, Ahmedabad, Drama Section addressed to Shivabhai L. Parmar as casual announcer inviting him to take part in the capacity of actor/performer/producer in the production to be broadcast as detailed below—to write and make announcement on 20.12.1986

to 25.12.1986 (six days) Ext.15, 02.02.1987 and 07.02.1987 (Ext.16). 21.06.1988 (Ext.17), 7, 12 & 14th October, 1989 (three days) (Ext.18), 06.11.1994, 03.12.1994, 04.12.1994 (three days intermittently in two months) (Ext.19) and for five days in June 1997, 02.06.1997, 06.06.1997, 10.06.1997, 12.06.1997 & 17.06.1997 (Ext.20). For per transmission duty wages at the prescribed rates was mentioned. More so, such booking for transmission announcement was given for advance dates that go to show that he was to keep himself in readiness always for the schedule dates of performing announce ship at A.I.R., Ahmedabad station is notional way of daily works.

7. The Union/2nd party submitted list of worker who demand for regularisation vide Ext.42. There are names of 10 workers (Casual announcers). At Sl. No. 1 there is name of Parmar Shivabhai Laxmanbhai (examined at Ext.13 and cross examined already discussed in above para 6. But other casual announcer/worker Sl. No. 2 Parmar Prafulla Punambhai, Sl. No. 3 Bhatt Neha Ramjibhai, Sl. No. 4 Dave Nitinbhai, Sl. No. 5 Desai Mukeshbhai, Sl. No. 6 Ganatra Dharmesh, Sl. No. 7 Jani Rupalben, Sl. No. 8 Thakkar Kishorbhai, Sl. No. 9 Shah Jayanaben and Sl. No. 10. Pandya Monaben have not come to depose in support of respective case. Though the Union /2nd party who raised demand for regularisation and confirmation of all casual announcers/daily rated but not a single chit of papers have been produced for other 9 casual/ daily rated worker in support that they were also engaged/appointed for casual announcer in the year 1986 or onward or that they also completed 10 years as casual daily rated announcer at A.I.R. stations or any contract paper of A.I.R. for those other 9 casual/daily rated announcers as per list (ext.42). More so, the witness Shivabhai Laxmanbhai Parmar in his oral evidence (Ext.13) has not deposed in representative capacity for the cause of other 9 daily rated worker (as per list Ext.42) According to his evidence vide Ext.13 he cannot tell name of any other casual announcer or cannot tell where in which A.I.R. they were working as casual announcer. More so, the pleading statement of claim filed by the Union (All Gujarat Kamdar Karmachari Union) is centred around cause of Shivabhai Laxman Parmar. So such plea as per amended para 3A....."that All India Radio, Ahmedabad has been taking undue advantage of poverty and unemployment in the country and in the name of selection process....." appears to be a futile allegation against the Central Government organisation All India Radio so far as other 9 casual workers are concerned. Such allegations have been emphatically denied and bounced back by the 1st party in its pleading written statement (Ext.34) and through oral and documentary evidence for the causes of other 9 casual workers as per list (ext.42).

8. The cross examination of 2nd party witness Shivabhai (ext.13) was allowed as per order passed below Ext.48 and the witness at Ext.13 was cross examined by

the 1st party's lawyer Shri Hitesh D. Kathrotia on 14.09.2011 and also re-examined at para 8 on same date 14.09.2011.

9. The 1st party examined in chief through affidavit (Ext.54) its witness Mahendrakumar Lalshankar Vyas, Programmer Executive in All India Radio. He works for the planning and production of programme at AIR stations and takes work from his subordinate staff vide para 3 he states that All India Radio recruitment rule is prescribed by the Government and the permanent post is sanctioned by the Director General, Ministry of Information and Broadcasting after approval of Ministry of Finance. As per recruitment rules to appoint permanent employees advertisement is given by the 1st party and after inviting applications scrutinizing the applications and thereafter list of candidates selected in written test, followed by audition test will send to Directorate for approval and appointment will be made after completion of other formalities like police verification/clearance, medical fitness examination etc. and that no permanent appointment can be made without said procedure. Recruitment of announcer in All India Radio is considering transmission hours, nature of programme also should be considered over and above recruitment procedure. He further stated that casual appointment can be made by the station Director when permanent employees on leave , or recruitment process is going on, but station director has no power to appoint permanent employees without following the procedure. His further evidence is that the 2nd party workman was not appointed as per Recruitment rules and that the 2nd party workman was engaged when and where required and that Ext. 10/1 to 10/6 (pucca Ext.15 to 20) are order issued to 2nd party worker Shivabhai L. Parmar for specified period as mentioned in the order by station director. The 2nd party workman (Shivabhai) never worked as permanent announcer and as per W.S (Ext.34) page 5 duties of casual announcer and regular announcer have been mentioned vide para 7 he further states that when permanent post is vacant casual announcer or employees can also make an application for permanent post and after due process of recruitment procedure he can be selected for the post. The 1st party witness was cross examined by Shri G.K. Parmar (Union President) in three adjournments and by that time demanded papers were produced by the witness of the 1st party marked Ext.M-55/1 to 55/3 and M-56. The 2nd party Union have gained much during cross examination to shake and discredit his testimony. Vide para-9 it has come that there was no question of termination of casual announcer Shivabhai since he had not been appointed. The evidence of the 1st party witness at para 10 of cross examination that in A.I.R., Ahmedabad station there were 5 regular announcer and that one retired and that for A.I.R., Ahmedabad station there was 10 sanctioned post of announcer out of which five was filled and Delhi Head quarter did not give approval for filling up of remaining

vacant post as per recruitment rules. He admitted that some junior announcer were made permanent as per recruitment procedure but it is not true that Shivabhai may not be made permanent so he was removed from the work of casual announcer. Vide para 14 he stated it is true that Shivabhai was working as announcer against permanent vacant post and that permanent vacant post are still existing. He without any reason deposed during cross examination that his department A.I.R., Ahmedabad is not ready to keep Shivabhai as announcer. It has also come that engagement of casual announcer is quite different to that of recruitment process of regular announcer.

10. Now coming to examine the documentary evidence-Ext. M-55/1 to 55/3 and M.-56 of the 1st party. Ext. 55/1 is announcer's written examination attendance sheet of candidate dated 14.04.1991 in which at Roll No. 1451 there is attendance signature of Shivabhai L. Parmar at written examination. Ext. 55/2 is result of written test held on 14.04.1991 for the post of programme announcer (Gujarati Jr. Grade) for A.I.R. Ahmedabad, Baroda in 20 sheets which go to show Shivabhai Roll No. 1451 (Sr. No. 1151) obtained 19 marks in written test. This also give break up that total candidate were 1393 out of which 243 were absent at written examination on 14.04.1991 and total candidates including Shivabhai 1150 appeared at written test. Ext. 55/3 is true copy of procedure of selection committee for recruitment of programme announcer (Grade IV) - Gujarati showing No of vacancies 5, date of advertisement 15.01.1991. last date of receipt of application 10.03.1991, no. of application received 1676, No. of candidates full filling including age limit-1391, dates of written rest on 14.04.1991, voice test & interview from 25.03.1992 to 16.04.1992, No of applicant called for written test 1392 & 408 in voice/interview and No of candidates who qualified- (nine) showing their names on page -2. But the 1st party withheld the names of 408 for voice test with Roll No. The 1st party is also silent why Shivabhai was not called for voice test and interview being SC candidates having secured 19 marks. Shivabhai (concerned workman) is also admitting that he did not clear the written test exam. However, from perusal of 20 sheet of marks sheet obtained by candidates vide Ext. M-55/2 it appears that the selection committee (encircled) the marks lowest 20 and onward in order to short out candidates to call for voice test and interview. But it is apparent that the election committee selected nine (9) candidates, with surname either 'Joshi', 'Thakore', 'Pandit', 'Jani', 'Bhatt', 'Yagnik' and 'Shah'. The 1st party has failed to show that total impartiality was followed. As per roaster chart, it has not been indicated as to how many post were for SC/ST candidates OBC and general and what was fixed for cut off marks for SC/ST candidates in written test for calling in voice test and interview. The list of selected candidates does not indicate that any of them belong to either Schedule caste or Schedule Tribe. It has been argued on behalf of the 2nd

party that the concerned workman Shivabhai L. Parmar belong to Schedule caste and he worked as announcer on vacant post in A.I.R. , Ahmedabad station for 10 years his candidature was not at all considered in selection process where as daughter of Director , Door Darshan Kendra, Rajkot and other kith and kin of A.I.R. Executives were considered. When concerned workman Shivabhai had obtained marks 19 in written test being Schedule cast candidate why he was ignored in calling for voice test and interview where as his audition test must have been perfect that enabled him to do the casual announcer ship for 10 years from 1986 to 1997. Had there been no efficiency and competency in performing the casual works of announcer in A.I.R., Ahmedabad station by Shivabhai he might not have been given advance booking in every months for announcer ship work either in morning, evening transmission vide Ext. 54 para 13 of cross examination. 1st party witness admitted that Shivabhai used to perform work of announcer either in morning transmission or evening transmission and as per admission at para 14 Shivabhai was performing the work of announcer against permanent vacant post and the permanent vacant post is still continuing. It has been also admitted by the 1st party witness at para-14 that on which permanent vacant post Shivabhai was performing announcer ship works is presently performed by his junior. This apparently go to show the discriminating attitude of the management of the 1st party against Shivabhai in stopping giving announcer ship to him from July/August 1997 whereas 5 sanctioned post of announcers are still vacant at A.I.R. , Ahmedabad station as per admission of the 1st party witness (Ext.54) para-10. From perusal of Ext. 15 to 20 of the 2nd party and Ext. 56 statement showing booking dates offered to Shivabhai Parmar for casual announcer ship, it is apparently proved that the concerned workman Shivabhai was regularly booked for announcer ship in A.I.R., Ahmedabad station from 1986 to 1997 till 17th June, 1997 and thereafter he was ignored in giving booking and instead of him juniors were preferred without cogent reason. This is a question mark that when a performer (Shivabhai) was performing work of announcer either in morning transmission or evening transmission for 10 years satisfactorily then how he was incompetent in not giving further advance booking on the vacant permanent post and why junior was preferred. That speaks a volume against discriminating attitude of the management of the 1st party to eliminate a progressive performer like concerned Shivabhai L. Parmar. In this connection the 1st party appears to be speak less by keeping conspicuous mum and for that reason fit to draw adverse inference against the 1st party in not coming in this case with clean hands.

11. Thus as per discussions and consideration in the foregoing paras. I am of the considered opinion that though concerned workman Shivabhai L. Parmar has not

actually worked for 240 days in any calendar year but as an active and sincere artist he completed 240 days of works as announcer on permanent vacant post still lying vacant and also in the calendar year preceding his alleged removal/termination or to stop giving work to him by the 1st party. But it is further held other 9 workers (Sl. No. 2 to 10 ) as per list (Ext.42) never completed 240 days of work actually to notionally in any calendar year as artist and so they [remaining nine (9)] workers as per list are out of court in this case. I further find and hold that booking of workman Shivabhai L. Parmar a casual daily rated announcer in the A.I.R., Ahmedabad station intermittently in every month for 6-12 days for the last 10 years from 1986 to July 1996 has given impetus to him (Shavabhai L. Parmar) only for claim of his regularisation/confirmation as permanent announcer in All India Radio, Akashwani, Ahmedabad of the 1st party. But such impetus is not available to other 9 worker as per list (Ext.42) (Sl. No. 2 to 10) since they are out of court. I further find and hold that the demand of the Union (All Gujarat Kamdar Karmachari Union) for regularisation and confirmation of casual daily rated announcer Shivabhai Laxmanbhai Parmar is only proper, legal and justified but for other 9 workers Union's demand is not at all justified. Thus, Issue No. iii, iv and v are decided accordingly.

**12. Issue No, i & ii:-** As per findings to issue No. iii, iv & v in the foregoing, I further find and hold that the reference is maintainable so far as demand for workman Shivabhai L. Parmar of Union is concerned and the 2nd party has got valid cause of action to the extent of the claim of Shivabhai L.Parmar.

**13. ISSUE No. vi:** - As per findings to issue No. i, ii, iii, iv & v in the foregoing, I am of the considered view and therefore further find and hold that the 2nd party concerned workman Shri Shivabhai Laxmanbhai Parmar is entitled for confirmation as permanent announcer in All India Radio, Akashwani, Ahmedabad from 01.08.1997 with continuity of service with consequential benefit. However 25% of back wages is allowed. The 1st party is directed to comply with this award within two months of receipt of this award failing which the back wages will carry interest @ 9% PA.

The reference is accordingly allowed in part. No. order for cost.

This is my award.

Let two copies of award be sent to the appropriate Government for publication under section 17 of the I.D. Act, 1947.

**BINAY KUMAR SINHA**, Presiding Officer

नई दिल्ली, 22 मई, 2014

का.आ. 1700.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेशन डायरेक्टर,

काकरापार एटॉमिक पावर स्टेशन, तापी एवं अदर्स के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या सीजीआईटीए-59/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 20/5/2014 को प्राप्त हआ था।

[सं. एल-42011/12/2011-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 22nd May, 2014

**S.O. 1700.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D No. CGITA-59/2011) of the Central Government Industrial Tribunal/ Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Station Director, Kakrapar Atomic Power Station, Tapi and Others and their workman, which was received by the Central Government on 20/05/2014.

[No. L-42011/12/2011-IR(DU)]

P. K. VENUGOPAL, Section Officer

## **ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
AHMEDABAD**

## **PRESENT:**

Shri Binay Kumar Sinha, Presiding Officer,  
Ahmedabad

Dated : 4th March, 2014

## **Reference (CGITA) No. 59/2011**

Reference Order No. L-42011/12/2011-IR(DU)

1. The Station Director,  
Kakrapar Atomic Power Station,  
Po : Anumala, Taluka: Vyara  
Tapi-394651
  2. The Chairman –cum-Managing Director,  
Nuclear Power Corporation of India Ltd. ,  
Anushakti Nagar,  
Mumbai . . . 1st party

AND

### Their workman

Through the General Secretary,  
Kakrapar Anumathak Karmachari Sangathan,  
Kapp Township,  
Post : Anumala,  
Tapi-394651

For the 1st Party : Shri K.V. Gadhia, Advocate  
Shri M.K. Patel, Advocate

For the 2nd party : Shri Hitesh D. Kathrotia, Advocate  
Shri B.K. Parmar, General Secretary,

### AWARD

The Government of India/Ministry of Labour, New Delhi, vide its order No. L-42011/12/2011-IR(DU)), dated 22.07.2011, referred the dispute between the employers in relation to the management of Kakarapar Atomic Power station and their workman for adjudication to the C.G.I.T.-cum-Labour Court, Ahmedabad (Gujarat) in respect of the matters specified in the schedule:-

### SCHEDULE

"Whether the demand of Kakarapar Anumathak Karmachari Sangathan not to implement the revised scheme for allotment of quarters till the 6th CPC anomalies committee submit its report and final decision arrived there on is legal and justified? What relief the concerned Union is entitled to?"

2. Consequent upon notice both parties appeared and filed Vakilparta engaging lawyer to take care in this case. The case is being adjourned for filing statement of claim by the 2nd party (Union). Today on the date fixed 2nd party Union containing the signature of R.K. Solanki (President) and B.K. Parmar (General Secretary) and their lawyer Shri H.D. Khathrotia filed a withdrawal pursis (Ext.6) upon which the lawyer of the 1st party noted down without any objection. Through this pursis (Ext.6) the 2nd party intended to withdraw this dispute unconditionally and so sought for permission and to pass necessary order.

3. Both sides were heard and perused the record withdrawal pursis. The 2nd party who raised dispute against management of the 1st party intent to unconditionally withdraw from this case.

As such this reference is dismissed as withdrawn and the terms of reference is answered in negative that the demand of Union is not legal and justified and the 2nd party not entitled to any relief.

Let its copy be sent to the appropriate Government for publication under section 17 of the I.D. Act.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 23 मई, 2014

**का.आ. 1701.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कमिशनर, म्युनिसिपल कारपोरेशन ऑफ दिल्ली के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, दिल्ली के पंचाट (संदर्भ संख्या 168/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/5/2014 को प्राप्त हुआ था।

[सं. एल-42012/71/2012-आईआर (डीयू) ]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 23rd May, 2014

**S.O. 1701.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D No. 168/2012) of the Central Government Industrial Tribunal/Labour Court No. 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The Commissioner, Municipal Corporation of Delhi and their workman, which was received by the Central Government on 18/05/2014.

[No. L-42012/71/2012-IR(DU)]

P. K. VENUGOPAL, Section Officer

### ANNEXURE

**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,  
CENTRAL GOVT. INDUSTRIAL TRIBUNAL NO.I,  
KARKARDOOMA COURTS COMPLEX: DELHI**

### I.D. No. 168/2012

Shri Suresh Singh,  
S/o Late Sh.Bhudev Prasad,  
Through The General Secretary,  
Nagar Nigam Karamchari Sangh,  
Delhi Pradesh, P-2/624, Sultanpuri,  
Delhi.

...Workman

### Versus

The Commissioner,  
Municipal Corporation of Delhi,  
Town Hall, Chandni Chowk,  
Delhi-110006.

...Management

### AWARD

A chowkidar employed by Municipal Corporation of Delhi (in short the Corporation) claimed payment of overtime allowance, since he was made to work beyond normal duty hours. His claim was not conceded to by the Corporation. He approached the Nagar Nigam Karamchari Sangh (Delhi) (in short the union) for redressal of his grievances. The union served notice on the Corporation seeking overtime allowance for duties performed in excess of normal working hours, wages for weekly holidays, gazetted holidays and casual leaves, which notice was not responded to. A dispute was raised before the Conciliation Officer. Since the Corporation contested the claim, conciliation proceedings ended into a failure. On consideration of failure report, submitted by the

Conciliation Officer, the appropriate Government referred the dispute to this Tribunal for adjudication, vide order No.L-42012/71/2012-IR(DU) dated 22.11.2012, with following terms:

“Whether action of the management of Municipal Corporation of Delhi (MCD) in denying overtime wages to the workman, Shri Suresh Singh, S/o Late Shri Bhudev Prasad, Chowkidar for performing 10 (ten) hours duty per day since the regularization of the workman Shri Suresh Singh with effect from 01.04.2004 is justified or not? If not, what relief the workman is entitled to and from which date?”

2. In the reference order, the appropriate Government commanded the parties to the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions, so given, the Chowkidar, namely, Shri Suresh Singh opted not to file his claim statement with the Tribunal.

3. Notice was sent to Shri Suresh Singh by registered post on 03.12.2012, calling upon him to file claim statement before the Tribunal on or before 02.01.2013. This notice was sent to him through the union, at P-2/624, Sultanpuri, Delhi, the address provided by the appropriate Government in order of reference. Neither the claimant nor the union responded to the notice, so sent.

4. Since none came forward on behalf of the claimant to file his claim statement, fresh notice was sent to him by registered post on 04.01.2013 calling upon him to file claim statement before the Tribunal on 29.01.2013. Notice was transmitted to the claimant by registered post on 31.01.2013 asking him to file his claim statement on or before 20.02.2013. Lastly, notice dated 22.02.2013 was sent by registered post commanding the claimant to file his claim statement before the Tribunal on or before 22.03.2013. Neither the postal articles, referred above, were received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notices were served upon the claimant. Despite service of these notices, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf.

5. Since onus of the question referred for adjudication was there on the Corporation, it was called upon to file its response to the reference order. Corporation filed its response, pleading therein that the dispute was not properly espoused by the union, hence liable to be rejected. It further asserted that the dispute has been raised at a belated stage, hence it became stale. The Appropriate Government cannot refer such a dispute for

adjudication, as it has become stale. The dispute is liable to be rejected on this count also, claims the Corporation.

6. The Corporation projects that claimant was getting overtime allowance @ Rs.625.00 upto a maximum of 50 hours in a month in accordance with circular dated 15.03.1997. For work performed on Sundays and Holidays, the chowkidars gets compensatory leave in lieu thereof, hence not entitled to overtime allowance. Chowkidars are entitled to 15 days casual leave, 3 national holidays and 6 other holidays of their choice in every calendar year. Their normal duty hours are 10 hours per day and previously chowkidars were entitled to 24 hours rest (one day) in fortnight. Now, a chowkidar is getting overtime allowance for 100 hours per month in accordance with circular dated 09.05.2011. Details of overtime allowance granted to the claimant from June'88 to March 2013 are annexed as Annexure C with the response. In view of these facts, claimant is not entitled to any relief, claims the corporation.

7. Arguments were heard at the bar. None came forward on behalf of the claimant to advance arguments. Shri Umesh Gupta, authorized representative, assisted by Ms. Jaishri, School Inspector, raised submissions on behalf of the Corporation. I have given my careful considerations to the arguments advanced at the bar and cautiously perused the record. My findings on issues involved in the controversy are as follows:

8. At the outset, it has been argued that the dispute has not acquired status of an industrial dispute since it has not been validly espoused by the union. For an answer, definition of the term industrial dispute is to be construed. For sake of convenience, definition of the term “industrial dispute”, as defined by section 2(k) of the Industrial Disputes Act, 1947 (in short the Act).

“(k) “Industrial dispute” means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person”.

9. The definition of “industrial dispute” referred above, can be divided into four parts, viz. (i) factum of dispute, (2) parties to the dispute, viz.(a) employers and employers, (b) employer and workmen, or (c) workmen and workmen, (3) subject matter of the dispute, which should be connected with –(i) employment or non-employment, or (ii) terms of employment, or (iii) condition of labour of any person, and (4) it should relate to an “industry”.

10. The definition of “industrial dispute” is worded in very wide terms and unless they are narrowed by the meaning given to word “workman” it would seem to include all “employers”, all “employments” and all “workmen”, whatever the nature or scope of the

employment may be. Therefore, except in the case where there can be a dispute between the employers and employers and workmen and workmen, one of the parties to an industrial dispute must be an employee or a class of employees. The first point, therefore, to be noted, perhaps self evident, is that the phrase “employer and workmen”, the plural may include singular on either side or any permutation of singular or plural, the masculine including the feminine. In order, therefore, to determine as to whether a controversy or difference or a dispute is an “an industrial dispute” or not, it must first be determined whether the workman concerned or workmen sponsoring his cause satisfy the conditions of clause (s) of section 2 of the Act. Here in the case, the Corporation does not dispute that the claimant is workman within the meaning of clause(s) of section 2 of the Act.

11. The Apex Court put gloss on the definition of “industrial dispute” in Dimakuchi Tea Estate [1958(1) LLJ 500] and ruled that the expression “any person” in clause (k) of section 2 of the Act must be read subject to such limitation and qualification as arise from the context, the two crucial limitations are (i) the dispute must be a real dispute between the parties to the dispute (as indicated in the first two parts of the definition clause) so as to be capable of settlement or adjudication by one party to the dispute giving necessary relief to other, and (2) the person regarding whom the dispute is raised must be one for whose employment, non-employment, terms of employment or conditions of labour, as case may be, the parties dispute for a direct or substantial interest. Where workman raised a dispute as against their employment, the person regarding whose employment, non-employer, terms of employment or conditions of labour, the dispute is raised need not be strictly speaking “workman” within the meaning of the Act, but must be one in whose employment, non-employer, terms of employment, or conditions of labour the workmen as a class have a direct or substantial interest. The observations made by the Apex Court are to be extracted thus:

“We also agree with the expression “any person” is not co extensive with any workman, particular or otherwise, equal with other, that the crucial test is one of community of interest and the person regarding whom the dispute is raised must be one in whose employment, non-employment, terms of employment, conditions of labour (as the case may be) the parties to the dispute have a direct or substantial interest. Whether such direct or substantial interest has been established in a particular case will depend on its facts and circumstances.”

12. In Kyas Construction Company (Pvt.) Ltd. [1958 (2) LLJ 660] the Apex Court ruled that an industrial dispute need not be a dispute between the employer and his workman and that the definition of the expression “industrial dispute” is wide enough to cater a dispute

raised by the employer’s workman with regard to non-employment of others, who may not be employed as workman at the relevant time. The Apex Court in Bombay Union of Journalist [1961 (II) LLJ 436] has observed that in each case in ascertaining whether an individual dispute has acquired the character of an industrial dispute, the test is whether at the date of reference, the dispute was taken up as submitted by the union of the workmen of the employer against whom, the dispute is raised by an individual workman or by an appreciable number of workmen. In order, therefore, to convert an individual dispute into an industrial dispute, it has to be established that it has been taken up by the union of employees of the establishment or by an appreciable number of the employees of the establishment. As far as union of the workmen of establishment itself is concerned, the problem of espousal by them generally presents little difficulty, since such workmen who are members of such unions generally have a continuity of interest with an individual employee who is one of their fellow workman. But difficulty arise when the cause of a workman, in a particular establishment is sponsored by a union which is not of the workmen of that establishment but is one of which membership is open to workmen of their establishment as well as in that industry. In such a case a union which has only microscopic number of the workmen as its member, cannot sponsor any dispute arising between the workmen and the management. A representative character of the union has to be gathered from the strength of the actual number of co workers sponsoring the dispute. The mere fact that a substantial number of workmen of the establishment in which the concerned workman was employee were also members of the union would not constitute sponsorship. It must be shown that they were connected together and arrived at an understanding by a resolution or by other means and collectively submitted the dispute.

13. The expression “industrial disputes” has been construed by the Apex Court to include individual disputes, because of the scheme of the Act. In Raghu Nath Gopal Patvardhan [1957(1) LLJ 27] the Apex Court ruled as to what dispute can be called as an industrial dispute. It was laid thereon that (1) a dispute between the employer and a single workman cannot be an industrial dispute, (2) it can not be per-se be an industrial dispute but may become if it is taken up by a trade union or a number of workmen. In Dharmpal Prem Chand [1965 (1) LLJ 668] it was commanded by the Apex Court that a dispute raised by a single workman cannot become an industrial dispute unless it is supported either by his union or in the absence of a union by substantial number of workmen. Same law was laid in the case of Indian Express Newspaper (Pvt.) Limited [1970 (1) LLJ 132]. However in Western India Match Company [1970 (II) LLJ 256], the Apex Court referred the precedent in Drona Kuchi Tea

Estate's case [1958 (1) LLJ 500] and ruled that a dispute relating to "any person becomes a dispute where the person in respect of whom it is raised is one in whose employment, non employment, terms of employment or conditions of labour, the parties, dispute for a direct or substantial interest".

14. What a substantial or considerable number of workmen would be in a given case, depend on particular facts of the case. The fact that an "industrial dispute", is supported by other workmen will have to be established either in the form of a resolution of the union of which workman may be member or of the workmen themselves who support the dispute or in any other manner. From the mere fact that a general union, at whose instance an "industrial dispute" concerning an individual workman is referred for adjudication, has on its roll a few of the workmen of the establishment as its members, it cannot be inferred that the individual dispute has been converted into an "industrial dispute". The Tribunal has therefore, to consider the question as to how many of the fellow workman actually espoused the cause of the concerned workman by participating in the particular resolution of the Union. In the absence of a such a determination by the Tribunal, it cannot be said that the individual dispute acquired the character of an industrial dispute and the Tribunal will not acquire jurisdiction to adjudicate upon the dispute. Nevertheless, in order to make a dispute an industrial dispute, it is not necessary that there should always be a resolution of substantial or appreciable number of workmen. What is necessary is that there should be some express or collective will of a substantial or an appreciable member of the workmen treating the cause of the individual workman as their own cause. Law to this effect was laid in P.Somasundrameran [1970 (1) LLJ 558].

15. It is not necessary that the sponsoring union is a registered trade union or a recognized trade union. Once it is shown that a body of substantial number of workmen either acting through a union or otherwise had sponsored the workman's cause, it is sufficient to convert it into an industrial dispute. In Pardeep Lamp Works [1970 (1) LLJ 507] complaints relating to dispute of ten workmen were filed before the Conciliation Officer by the individual workmen themselves. But their case was subsequently taken up by a new union formed by a large number of co-workmen, if not a majority of them. Since this union was not registered or recognized, the workmen elected five representatives to prosecute the cases of ten dismissed workmen. Thus cases of the dismissed workmen were espoused by the new union, yet unregistered and unrecognized. The Apex Court held that the fact that these disputes were not taken up by a registered or recognized union does not mean that they were not "industrial dispute".

16. It is not expedient that same union should remain incharge of that dispute till its adjudication. The dispute may be espoused by the workmen of an establishment, through a particular union for making such a dispute an "industrial dispute", while the workman may be represented before the Tribunal for the purpose of Section 36 of the Act by a member of executive or office bearer of altogether another union. The crux of the matter is that the dispute should be a dispute between the employer and his workmen. It is not necessary that the dispute must be espoused or conducted only by a registered trade union. Even if a trade union ceases to be registered trade union during the continuance of the adjudication proceedings that would not affect the maintainability of the order of reference. Law to this effect was laid by the High Court of Orissa in Gammon India Limited [1974 (II) LLJ 34]. For ascertaining as to whether an individual dispute has acquired character of an individual dispute, the test is whether on the date of the reference the dispute was taken up as supported by the union of the workmen of the employer against whom the dispute is raised by the individual workman or by an appreciable number of the workman. In other words, the validity of the reference of an industrial dispute must be judged on the facts as they stood on the date of the reference and not necessarily on the date when the cause occurs. Reference can be made to a precedent in Western India Match Co.Ltd. [1970 (II) LLJ 256].

17. Here in the case, not even an iota of facts are brought over the record to the effect that the union took up the cause of the claimant as their own. It is also not shown that the members of the union had shown their collective will in favour of the cause of the claimant. Thus it is evident that there is a complete vacuum of facts to the effect that the union espoused the cause of the claimant. Resultantly there is no material to conclude to the effect that the dispute acquired status of an industrial dispute. The reference is liable to be answered against the claimant on that score.

18. Next count of attack made by the Corporation that the dispute was raised by the claimant after 8 years, which frustrates the relief in his favour. Section 10 (1) of the Act does not prescribe any period of limitation for making reference of the dispute for adjudication. The words 'at any time' used in sub-section (1) of Section 10 of Act does not admit of any limitation in making an order of reference. Law of limitation, which might bar any Civil Court from giving remedy in respect of lawful rights, cannot be applied by Industrial Tribunals. However, policy of industrial adjudication is that stale claim should not be generally encouraged or allowed unless there is satisfactory explanation for delay. In Shalimar Works Ltd. [1959 (2) LLJ 26], the Apex Court pointed out that though there is no limitation prescribed in making reference of the dispute to Industrial Tribunal, even so, it is only reasonable

that disputes should be referred as soon as possible after having arisen and on failure of conciliation proceedings. In Western India Match Company [1970 (2) LLJ 256] the Apex Court observed that in exercising its discretion, Government will take into account time which has lapsed between its earlier decision and the date when it decides to consider it in the interest of justice and industrial peace to make the reference for adjudication. Same view was taken in Mahabir Jute Mills Ltd. [1975 (2) LLJ 326]. In Gurmail Singh [2000 (1) LLJ 1080] Industrial Adjudicator dismissed the reference on the ground that there was delay of 8 years in raising the dispute, which delay was condoned by the Apex Court and it was ordered that the workman would not be entitled to any back wages for the period of 8 years but would be entitled to 50% of wages from the date it raised the dispute till the date of his reinstatement. In Prahalad Singh [2000 (2) LLJ 1653], the Apex Court approved the award of the Tribunal in not granting any relief to the workman who preferred the claim after a period of 13 years without any reasonable or justifiable grounds. In Nedungadi Bank Ltd. [2002 (2) SCC 4] a lapse of seven years in raising the dispute was held to be a factor to refuse the relief. The Apex Court ruled that the appropriate Government has to exercise its powers of referring the dispute in a reasonable manner. Delay of seven years made the Court to conclude that there was no dispute existing or apprehended when decision was taken to refer it for adjudication. Same view was taken in Haryana State Co-operative Land Development Bank [2005 (5) S.C.C. 91]. From above decisions, it can be said that the law relating to delay in raising or reference of dispute is bereft of any principles, which can be easily comprehended by the litigants.

19. Claimant raised the dispute in respect of overtime allowance paid to him with effect from 01.04.2004. Thus, it is emerging over the record that the claimant had raised the dispute after a long gap of 8 years. No explanation is offered for this inordinate delay. It appears that there was no industrial dispute in existence or could be even said to have been apprehended in the year 2012, when the appropriate Government applied its mind to the facts of the present controversy.

20. Corporation contests the dispute on the count that no notice of demand was served on it prior to raising a dispute before the Conciliation Officer. These facts also remained uncontested. The object of the Act is to protect workman against victimization by the employer and ensure termination of industrial dispute in a peaceful manner. The Act, however, does not provide for any set of social and economic principles for adjustment of conflicting interests. Such norms have been evolved and devised by industrial adjudication, keeping in view the social and economic conditions, the needs of the workmen, the requirement of the industry, social justice, relative interests of the parties and common good. These norms have given

rights to the industrial employees what may be called industrial rights, as such rights may not be available at common law. Disputes as to the conditions of employment can be resolved by resorting to a technique known as collective bargaining. This tool is resorted to between an employer or group of employers and a bonafide labour union. Policy behind this is to protect workmen as a class against unfair labour practices. What imparts to the dispute of a workman the character of an “industrial dispute” is that it affects the right of the workmen as a class.

21. An industrial dispute comes into existence when the employer and the workman are at variance and the dispute/difference is connected with the employment or non-employment, terms of employment or with conditions of labour. In other words, dispute or difference arises when a demand is made by the workman on the employer and it is rejected by him and vice versa. In Sindhu Resettlement Corporation Ltd. [1968(1) LLJ 834], the Apex Court has held that mere demand, asking the appropriate Government to refer a dispute for adjudication, without being raised by the workmen with their employer, regarding such demand, cannot become an industrial dispute. Hence, an industrial dispute cannot be said to exist until and unless a demand is made by the workman or workmen on the employer and it has been rejected by him. In Fedders Lloyd Corporation Pvt. Ltd.(1970 Lab.I.C.421), High Court of Delhi went a step ahead and held that “... demand by the workman must be raised first on the management and rejected by it, before an industrial dispute can be said to arise and exist and that the making of such a demand to the Conciliation Officer and its communication by him to the management, who rejected the demand, is not sufficient to constitute an industrial dispute.”

22. The above decision was followed by Orissa High Court in Orissa Industries Pvt. Ltd. (1976 Lab.I.C. 285) and Himachal Pradesh High Court in Village Paper Pvt. Ltd.(1993 Lab.I.C. 99). However, the Apex Court in Bombay Union of Journalists [1961 (2) LLJ 436] had ruled that an industrial dispute must be in existence or apprehended on the date of reference. If, therefore, a demand has been made by the workman and it has been rejected by the employer before the date of reference, whether direct or through the Conciliation Officer, it would constitute an industrial dispute. In Shambhunath Goyal [1978(1) LLJ 484], the Apex Court appreciated facts that the workman had not made a formal demand for his reinstatement in service. However, he had contested his dismissal before the Enquiry Officer and claimed reinstatement. Against the findings of the Enquiry Officer, he preferred an appeal to the Appellate Authority, claiming reinstatement on the ground that his dismissal was bad in law. Then again, he claimed reinstatement before the Conciliation Officer in the course of conciliation proceedings, which was contested by the employer. Appreciating all these facts, the Apex court inferred that there was impeccable evidence

that the workman had persistently demanded reinstatement, rejection of which brought an industrial dispute into existence.

23. In New Delhi Tailor Mazdoor Union [1979(39) FLT 195], High Court of Delhi noted that Shambunath Goyal had not overruled Sindhu Resettlement Pvt. Ltd. But it had distinguished it on facts. It was also pointed out that decision of three Judges bench in Sindhu Resettlement Pvt. Ltd. could not have been overruled by two Judge bench in Shambunath Goyal. The High Court concluded that decision in Sindhu Resettlement Pvt. Ltd., in case of any conflict between the two decisions, must prevail. The High Court held that making of the demand by the workman on the management was sine qua non for giving rise to an industrial dispute.

24. The High Court of Madras in Management of Needle Industries [1986(1) LLJ 405] has held that dispute or difference between management and the workman, automatically arises when the workman is dismissed from service. His dismissal per se creates a dispute or difference between the management and the workman. The Court further observed that "it is nowhere stipulated in the Act, particular in section 2(k), that existence of the dispute as such is not enough but then there should be a demand by the workman on the management to give rise to an industrial dispute". However, this decision appears to be inconsistent with the ratio of decision in Bombay Union of Journalists(supra) and Sindhu Resettlement (supra). No doubt, for existence of an industrial dispute, there should be a demand by the workman and refusal to grant it by the management. However, a demand should be raised, cannot be a legal notion of fixity and rigidity. Grievances of the workman and demand for its redressal must be communicated to the management. Means and mechanism of the communication adopted are not matters of much significance, so long as demand is that of the workman and it reaches the management. Reference can be made to the precedent in Ram Krishna Mills Coimbatore Ltd. [1984 (2) LLJ 259].

25. The Act nowhere contemplates that the industrial dispute can come into existence in any particular, specific or prescribed manner nor there is any particular or prescribed manner in which refusal should be communicated. For an industrial dispute to come into existence, written claim is not sine qua non. To read into the definition, requirement of written demand for bringing an industrial dispute into existence would tantamount to rewriting the section, announced the Apex Court in Shambunath Goyal(supra). In other words, oral demand and its rejection will as much bring into existence an industrial dispute, as written one. If facts and circumstances of the case show that the workman had been making a demand, which the management had been

refusing to grant, it can be said that there was an industrial dispute between the parties.

26. Since the claimant had not come forward to project that demand notice was served on the corporation, under these circumstances, stand taken by the corporation is to be believed. Corporation projects that no notice of demand was served on it, before industrial dispute was raised before the Conciliation Officer. Thus, it is emerging over the record that it has not been established that demand was raised on the corporation, which was rejected by it and as such, dispute has not acquired status of an industrial dispute.

27. Turning to facts presented by the Corporation, it emerges that the Corporation takes 10 hours duty from Chowkidars. Keeping in view the nature of duties performed, the Corporation was paying intermittent allowance to Chowkidars for performing more than 10 hours duty. Allowance was paid @ Rs.130.00 per month for performance of duty upto 12 hours, Rs.180.00 per month for duties performed for more than 12 hours but upto 16 hours and Rs.190.00 per month for performing duties more than 16 hours a day. Workers union agitated the issue and demanded overtime allowance in lieu of intermittent allowance. On the basis of the resolution, the Corporation, vide its decision dated 15.03.1997 decided to pay overtime allowance to the maximum limit of 50 hours. The said allowance was paid @Rs.625.00 per month. Workers union further demanded enhancement of maxima limit of overtime allowance and in consideration of the said demand, the Corporation started paying overtime allowance with a cap of 100 hours a month. Now, the Corporation is paying overtime allowance to Chowkidars at Rs.1250.00, in pursuance of Office Order dated 09.05.2011.

28. Annexure C, when scanned, highlights that from January 98 till March 2011, overtime allowance was paid to the claimant @ Rs.625.00 per month. From April 2011 till March 2013, overtime allowance has been paid to the claimant @ 1250.00 per month. Therefore, it is emerging over the record that overtime allowance is being paid to the claimant in accordance with the circulars, issued by the Corporation from time to time.

29. In view of the above reasons, it is evident that the action of the Corporation in paying overtime allowance to the claimant @ Rs.625.00 per month till March 2011 and thereafter Rs.1250.00 till date is in accordance with the circulars issued from time to time. Claimant is not entitled to overtime allowance more than the amount referred above. Resultantly, action of the Corporation is found to be justified. No relief is available to the claimant. An award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dr. R. K. YADAV, Presiding Officer

Date : 06.12.2013

नई दिल्ली, 29 मई, 2014

**का.आ. 1702.**—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार प्रिसिपल जनरल मैनेजर, टेलिकम्यूनिकेशन के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़ के पंचाट (संदर्भ संख्या 508/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29/5/2014 को प्राप्त हुआ था।

[सं. एल-40012/83/2002-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 29th May, 2014

**S.O. 1702.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D No. 508/2005) of the Central Government Industrial Tribunal/Labour Court No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Principal General Manager, Telecommunications, and their workman, which was received by the Central Government on 29/5/2014.

[No. L-40012/83/2002-IR(DU)]

P. K. VENUGOPAL, Section Officer

#### ANNEXURE

### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

#### PRESENT:

Sri Kewal Krishan, Presiding Officer.

#### Case No. I.D. No.508/2005

Registered on 22.8.2005.

Smt. Kalawati, H.No.2154, Phase II, Ram Darbar,  
Chandigarh. . . . Petitioner

#### Versus

The Principal General Manager, Telecom, Telephone  
Dept., Sector 18A, Chandigarh. . . . Respondent

#### APPEARANCES:

For the workman : Sh. Chaman Lal Adv.

For the Management : Sh. Anish Babbar Adv.

#### AWARD

Passed on-2.5.2014

Central Government vide Notification No. L-40012/83/2002-IR(DU) Dated 21.10.2002, by exercising its powers

under Section 10 Sub Section (1) Clause (d) and Sub Section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

"Whether the action of the management of BSNL in terminating the service of Smt. Kalawati, ex part time sweeper is just and legal? If so, what relief the workman is entitled to?"

In response to the notice, the workman submitted statement of claim pleading that she was engaged as part time sweeper by the respondent management and she served from 20.9.1983 to March 1999. That she was eligible for regularization of her services as per the instructions/guidelines issued from time to time and she requested the respondents for the same. The respondents terminated her services in the month of March 1999 without assigning any reason and against the provisions of the Act. That the work is still there against which she was employed and the persons who were junior to her were not terminated. That she was eligible for the status of full time casual labourer as per letter dated 25.8.2000. That the termination of her services is illegal and she be reinstated in service with full back wages.

Respondents filed written reply pleading that the workman was employed as a sweeper for five hours on contract basis and for a fixed remunerations. She was not entitled to regularization. That her services came to an end on the expiry of the contractual period and she was not to be paid any retrenchment compensation. That she filed a petition before the Hon'ble Central Administrative Tribunal challenging her termination and the same was dismissed vide order dated 24.9.1997. She preferred a writ petition which she withdrew unconditionally. That the present reference is not maintainable.

In support of her case workman appeared in the witness box and filed her affidavit reiterating her case as set out in the claim petition.

On the other hand the management has examined Harcharan Singh who filed his affidavit Exhibit R1 reiterating the stand taken by the respondent management in the written statement.

I have heard Sh. Chaman Lal, counsel for the workman and Sh. Anish Babbar counsel for the management and perused the file.

It was contended by the learned counsel for the workman that the workman was appointed on 20.9.1983 and her services were terminated in March 1999 without payment of retrenchment compensation and therefore the termination of her services is illegal and she is entitled to be reinstated in service with all the benefits.

I have considered the contentions of the learned counsel.

It may be added that though it is admitted that workman worked with the respondent department but the workman did not place on record any appointment letter. According to the respondent management she was engaged as part time sweeper working for five hours on contract basis. It is pleaded in para 2 of the statement of claim that she asked for regularization of her services to the respondent management meaning thereby she was not appointed on regular basis. The management itself placed on record the letters dated 1.3.1995 Exhibit M3, 7.9.1995 Exhibit M4, 12.3.1996 Exhibit M7, 13.9.1996 Exhibit M9, 14.3.1997 Exhibit M11 and 16.9.1997 Exhibit M13 showing that her services were hired on contract basis for six months only from time to time on a fixed remuneration. Thus she was working with the respondent management as part time worker on contract basis on a fixed remuneration and on the expiry of the contractual period, her services came to an end automatically. Since she was a contractual worker, the termination of her service do not fall within the definition of 'retrenchment' and she was not entitled to claim any compensation. In this respect reliance may be placed on Himanshu Kumar Vidyarthi and others, Petitioners v. State of Bihar and others, Respondents wherein it was observed that – They are temporary employees working on daily wages. Under these circumstances, their disengagement from service cannot be construed to be a retrenchment under the Industrial Disputes Act. The concept of retrenchment, therefore, cannot be stretched to such an extent as to cover these employees. The learned counsel for the petitioners seeks to contend that in the High Court, the petitioners did not contend that it is a case of retrenchment but termination of their services is arbitrary. Since they are only daily wage employees and have no right to the posts, their disengagement is not arbitrary.

Though it is pleaded that her services were to be regularized as per instructions/guidelines issued by the department from time to time but no such instructions was pointed out at the time of arguments and she cannot be reinstated in service simply on the ground that she worked as part time worker for a long period.

In result it is held that the termination of the services of the workman is not illegal and workman is not entitled to any relief. The reference is accordingly answered against the workman. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 29 मई, 2014

**का.आ. 1703.—**ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिस्ट्रिट मैनेजर,

टेलिकम्पूनिकेशन, जींद के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण एवं श्रम न्यायालय-2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 22/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29/5/2014 को प्राप्त हुआ था।

[ सं. एल-40012/229/2003-आईआर (डीयू) ]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 29th May, 2014

**S.O. 1703.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 22/2004) of the Central Government Industrial Tribunal/Labour Court No. II, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of District Manager, Telecommunications, Jind and their workmen, which was received by the Central Government on 29/05/2014.

[No. L-40012/229/2003-IR(DU)]

P. K. VENUGOPAL, Section Officer

#### ANNEXURE

#### INTHE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

#### PRESENT:

Sri Kewal Krishan, Presiding Officer

**Case No. I.D. No. 22/2004**

Registered on 30.11.2004

Sh. Ramesh S/o Sh. Tara Chand,  
Village and Post Office Bishanpura, Jind ...Petitioner

#### Versus

The District Manager,  
Telecommunication, Jind ...Respondent

#### APPEARANCES:

For the Workman : Sh. Rakesh Kaundal Adv.

For the Management : Sh. Anish Babbar Adv.

#### AWARD

Passed on-5.5.2014

Central Government vide Notification No. L-40012/229/2003-IR(DU) Dated 7.6.2004, by exercising its powers under Section 10 Sub-section (1) Clause (d) and Sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal :

"Whether the action of the management of M/s. BSNL, Jind in terminating the services of Sh. Ramesh, Labourer S/o Sh. Tara Chand w.e.f. 12.7.2002 is just and legal? If not to what relief the workman is entitled to?"

The workman submitted statement of claim pleading that he was engaged as Peon by the District Manager, Jind in February 1998 and he joined service on 2.2.1998 in the Office of SDO (Telephones) Jind. It is pleaded that his services were used for clerical duties and he did the work in the Office of SDO (Telephones) Jind. That he maintained despatch registers and salary register. That his services were discontinued on 12.7.2002 without serving him any charge-sheet, show cause notice and payment of any retrenchment compensation. Respondent management allege some contract to the security agency and the same in fact is a camouflage. Since his services have been terminated in violation of the provisions of the Act, he is liable to be reinstated in service with all the benefits.

Respondent management filed written reply controverting the averments and pleaded that the claimant was never engaged by the respondent nor he was paid any wages. There was no relationship of master and servant between the parties. The respondent department entered into the contract with the security service who engaged certain persons and the claimant may have been engaged by the contractor. If he had helped in a friendly way to make certain entries in any register, the same do not establish that he was an employee of the Department.

Parties led their evidence.

In support of his case the workman has examined Ram Kumar, Jatinder Kumar and himself appeared in the witness box.

Ram Kumar stated that he work in the department and used to visit Head Office at Jind where he found the workman working and handling the official files.

Jitender Kumar, an officer of the department, was summoned to produce the record.

Ramesh Kumar claimant filed his affidavit reiterating the case as set out in the claim petition. He has also placed on record photocopy of the identity card Exhibit A2, Dak Register Exhibit A3, A4, A6 to A8 and a copy of register regarding deposit of security Exhibit A5.

On the other hand respondent management examined Kapoor Singh who filed his Affidavit Exhibit R1 reiterating the case of the respondents as set out in the written statement and also placed on record copy of the agreement Exhibit R2 to R4.

I have heard Sh. Rakesh Kaundal counsel for the workman and Sh. Anish Babbar, counsel for the management.

It was argued by the learned counsel that the workman was initially appointed as Peon but used to work as a Clerk as is evident from the statement of Ram Kumar; and the statement of workman Ramesh himself stands corroborated from the documents Exhibit A2 to A8 and thus it is established on the file that workman was employed by the respondent management who used to take work from him as Clerk and he worked from February 1998 to July, 2002; and since his services have been terminated without complying with the provisions of the Act, he has a right to be reinstated in service.

He has further carried me through application at page 16 of the file and submitted that he summoned the record but was not produced by the department and therefore, adverse inference be drawn against it.

I have considered the contention raised by the learned counsel.

It may be added at the outset that the reference is whether the terminating the services of Sh. Ramesh Kumar, "Labourer" is just and legal. Thus in the reference the status of the claimant was mentioned as a "labourer." But now he claims that he was appointed and posted as Peon and work there taken from him was that of a clerk. Respondent department is a statutory body and has its own rules and regulations for making the appointments in the department. There is nothing on the file to suggest that any such procedure was followed before giving any appointment to the workman. Again no record has been placed on the file to show that he was ever paid salary/wages by the department. Thus it cannot be said that he was appointed as Peon by the department at any point of time.

So far as the Dak registers and register regarding deposit of security are concerned, the same are not verified by any Officer of the department and at the most these can be treated as the admission by the workmen in his own favour and cannot be relied upon. Similarly the identity card Exhibit A2 is not attested by any officer of the department and it carries no weight.

The statement of Ram Kumar do not advance the case of the workman in any way as according to him he had seen the workman only handling the files and he is totally silent about his appointment as Peon in the department. The workman has summoned the record as mentioned in the application which is at page 16 of the file but it is not clear how this record prove the appointment of the workman as a Peon in the department or his working as a Clerk there. Therefore if the department do not produce the record, the same is also of no help to the workman.

In result, it is held that the workman has failed to prove that he was appointed as labourer or Peon by the department directly and his services were terminated by it and he is not entitled to any relief. The reference is

accordingly answered against the workman. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 29 मई, 2014

**का.आ. 1704.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एतद्वारा मैनेजर, वोडाफोन इंडिया प्राइवेट लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 08/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/5/2014 को प्राप्त हुआ था।

[सं. एल-40012/122/2013-आईआर (डीयू) ]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 29th May, 2014

**S.O. 1704.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. 08/2014) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Manager, Vodafone India Pvt. Ltd. and their workmen, which was received by the Central Government on 29/05/2014.

[No. L-40012/122/2013-IR(DU)]

P. K. VENUGOPAL, Section Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

#### PRESENT:

Dr. MANJU NIGAM, Presiding Officer

**I.D. No. 08/2014**

**Ref. No. L-40012/122/2013-IR(DU) dated: 11.02.2014**

#### BETWEEN

Sh. Abhishek S/o Late Sh. Purushottam Singh,  
SS-II, 646 D-I, LDA Colony,  
Kanpur Road,  
Lucknow – 226 022

#### AND

The Manager,  
Vodafone India Pvt. Ltd.,  
Shalimar Titanium, Plot No. TC/G 1/1,  
Vibhuti Khand, Gomti Nagar,  
Lucknow.

#### AWARD

1. By order No. L-40012/122/2013-IR(DU) dated: 11.02.2014 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sh. Abhishek S/o Late Sh. Purushottam Singh, SS-II, 646 D-I, LDA Colony, Kanpur Road, Lucknow and the Manager, Vodafone India Pvt. Ltd., Shalimar Titanium, Plot No. TC/G 1/1, Vibhuti Khand, Gomti Nagar, Lucknow for adjudication.

2. The reference under adjudication is:

“KYA KARMAKAAR ABHISHEK PUTRA SWA PURUSHOTTAM SINGH KO PRABANDHAN VODAFONE INDIA PVT. LTD., LUCKNOW DWARA VARSH 2010-2011 KE BONUS KA BHUGTAAN NA KIYA JANA UCHIT EVAM VAIDHANIKA HAI? YADI NAHI TO KARMAKAAR KYA ANUTOSH PANE KA ADHIKAARI HAI?”

3. On receipt of the reference order the workman was issued registered notice to file his statement of claim complete with relevant documents, list of reliance and witnesses before Tribunal on 11.04.2014 with an advance copy to the opposite party. On the date fixed i.e. 11.04.2014, the workman filed its authority, paper No. W-3, in favour of Shri Tungesh, Advocate who sought time to file the statement of claim and 25.04.2014 was fixed for filing the statement of claim by the workman.

4. On 25.04.2014 the workman filed an application, W-4, seeking leave of the Court to withdraw his case due to personal reasons. Accordingly, it has been prayed by the workman that the present dispute be allowed to be withdrawn and appropriate orders may be passed.

4. In view of the submission of the workman for withdrawal of the case, it appears that there is no grievance left with the workman; accordingly no claim award is passed. The reference under adjudication is answered accordingly.

5. Award as above.

Lucknow  
08th May, 2014

Dr. MANJU NIGAM, Presiding Officer

नई दिल्ली, 29 मई, 2014

**का.आ. 1705.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एतद्वारा नई सेक्युरिटि फोर्स C/o. बीएसएनएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के

पंचाट (संदर्भ संख्या 10/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/5/2014 को प्राप्त हुआ था।

[सं. एल-40011/86/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 29th May, 2014

**S.O. 1705.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. 10/2014) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. New Security Force C/o. BSNL and their workmen, which was received by the Central Government on 29/05/2014.

[No. L-40011/86/2013-IR(DU)]

P. K. VENUGOPAL, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 21st May, 2014

#### PRESENT:

K. P. PRASANNA KUMARI, Presiding Officer

#### Industrial Dispute No. 10/2014

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of New Security Force and their workman.]

#### BETWEEN

Sri C. Venkatesan : 1st Party/Petitioner

#### AND

M/s. New Security Force : 2nd Party/  
C/o BSNL Respondent

Vellore SSA  
Vellore

#### APPEARANCE:

For the 1st Party/Petitioner : Absent

For the 2nd Party/Respondent : Ex parte

#### AWARD

The Central Government, Ministry of Labour and Employment vide its Order No. L-40011/86/2013-IR (DU) dated 12/18.02.2014 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the Contractor i.e. M/s. New Security Force, Trichy regarding non-payment of minimum bonus of 8.33% to the workers for the year 2009-10, 2010-11 and 2011-12 is justified or not ? If not, to what relief the workmen is entitled to ??”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 10/2014 and issued notices to both sides. The petitioner has appeared in person on the date of first appearance. The Respondent was not present though notice was served and has been set ex-parte.

3. After the date of first appearance, the petitioner was continuously absent. He seems to be not interested in pursuing the matter. He ha not filed any Claim Statement even. So no material is available to proceed with the matter. So the ID is closed. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 21st May, 2014).

K. P. PRASANNA KUMARI, Presiding Officer

#### Witness Examined :

For the 1st Party/Petitioner : None

For the 2nd Party/Management : None

Documents Marked on both sies : Nil

नई दिल्ली, 29 मई, 2014

**का.आ. 1706.**—औद्योगिक विवाद अधिनियम, 1947 ( 1947 का 14 ) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडिया गवर्नर्मेंट मिनिस्टर, अलीपोरे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकाता के पंचाट ( संदर्भ संख्या 24 ऑफ 2006 ) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/5/2014 को प्राप्त हुआ था।

[सं. एल-16011/10/2005-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 29th May, 2014

**S.O. 1706.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 24 of 2006) of the Central Government Industrial Tribunal/Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of India Govt. Mint, Alipore and their workmen, which was received by the Central Government on 29/05/2014.

[No. L-16011/10/2005-IR(DU)]

P. K. VENUGOPAL, Section Officer

**ANNEXURE**

**CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL AT KOLKATA**  
**Reference No. 24 of 2006**

**PARTIES:**

Employers in relation to the management of India  
Govt. Mint, Alipore

**AND**

Their workmen

**PRESENT:**

Justice Dipak Saha Ray, Presiding Officer

**APPEARANCE:**

On behalf of the : None  
Management

On behalf of the : None  
Workmen

State: West Bengal Industry: Mint

Dated: 20th May, 2014

**AWARD**

By Order No. L-16011/10/2005-IR(DU) dated 16.06.2006 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of India Govt. Mint, Alipore, Kolkata in discontinuing the payment of Non-Productivity linked Bonus (Ad-hoc) applicable to its employees in terms of OM No. F-14(6)-E(Coord)/083 dt.10.11.1983 and having further decided to forthwith recover the amount already paid on account of aforesaid Bonus, as per direction of Deptt. of Economic Affairs, Ministry of Finance, Govt. of India issued vide letter F. No. 3/34/03-Cy-III dated 3rd Nov. 03, is legal and justified ? If not, to what relief the employees are entitled?

2. When the case is taken up for hearing today, none appears on behalf of either of the parties. It appears from the record that the parties are absent for the last two consecutive dates.

3. Considering the above facts and circumstances and also the conduct of the parties it appears that the parties are not willing to proceed with this reference further.

Perhaps the matter has been amicably settled between the parties outside the Tribunal.

4. In view of the above, instant reference is disposed of by passing a “No Dispute Award”.

**JUSTICE DIPAK SAHA RAY, Presiding Officer**

Dated, Kolkata,  
The 20th May, 2014

नई दिल्ली, 29 मई, 2014

**का.आ. 1707.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दमक टेक्नोलॉजीज प्राइवेट लिमिटेड, बरोदा एवं ओरेस के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 269/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/5/2014 को प्राप्त हुआ था।

[ सं. एल-42012/105/2013-आईआर (डीयू) ]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 29th May, 2014

**S.O. 1707.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. 269/2013) of the Central Government Industrial Tribunal/Labour Court No. 1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the M/s. DEMAC Technologies Private Ltd., Baroda and Others and their workman, which was received by the Central Government on 29/05/2014.

[No. L-42012/105/2013-IR(DU)]

P. K. VENUGOPAL, Section Officer

**ANNEXURE**

**BEFORE SHRI SURENDRA PRAKASH SINGH,  
PRESIDING OFFICER, CENTRAL GOVT.  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,  
CHANDIGARH**

**Case No. ID 269 of 2013**

**Reference No. L-42012/105/2013-IR(DU) dated  
18.03.2014**

Sh. Subhash Chand, S/o Sh. Om Prakash, Village-Ratta Khera, Tehsil-Safidon, Jind. . . . Workman

**Versus**

1. M/s. DEMAC Technologies Private Ltd. M/s DEMAC Technologies Private Ltd, SB-21, Ivory Terrance, Rc Dutt Road, Alkapuri, Baroda-390007.
2. M/s. Toyo Engineering India Limited ISRL-SBR Project, Baholi, Distt. Panipat, Panipat. . . . Respondents

**APPEARANCES:**

For the Workman : None.

For the Management : None.

**Award Passed On:-20-05-2014**

Government of India Ministry of Labour vide notification No. L-42012/105/2013-IR(DU) dated 18.03.2014 has referred the following dispute to this Tribunal for adjudication :

**Term of Reference:**

“Whether the action of the management of DEMAC Tech Private Ltd and Others., over the matter of termination of Shri Subhash Chand from services is legal and justified? If not, what relief the workman is entitled to?”

2. The case was fixed in Lok Adalat. A letter through registered post has been received from respondent No.1 along with photocopy of no objection certificate dated 25.03.2013 of workman Subhash Chand wherein workman stated that he has received a sum of Rs. 25,000 against his full and final settlement and there in nothing balance from the respondents. Along with the letter, there is also photocopy of letter dated 30.03.2013 from workman that he has already received his dues and his case may be closed. Despite notices to the workman none appeared on his behalf. It appears that the workman does not want to continue with his reference. In view of the above the reference is returned to the Central Govt. as settled.

Chandigarh.  
20-05-2014

S. P. SINGH, Presiding Officer

नई दिल्ली, 30 मई, 2014

**का.आ. 1708.—औद्योगिक विवाद अधिनियम, 1947**  
(1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कमिशनर म्युनिसिपल कारपोरेशन ऑफ दिल्ली के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, दिल्ली के पंचाट (संदर्भ संख्या 167/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 30/5/2014 को प्राप्त हुआ था।

[सं. एल-42012/66/2012-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 30th May, 2014

**S.O. 1708.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. 167/2012)

of the Central Government Industrial Tribunal/Labour Court No. 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The Commissioner, Municipal Corporation of Delhi, Delhi and their workmen, which was received by the Central Government on 30/05/2014.

[No. L-42012/66/2012-IR(DU)]

P. K. VENUGOPAL, Section Officer

**ANNEXURE****BEFORE DR. R. K. YADAV, PRESIDING OFFICER,  
CENTRAL GOVT. INDUSTRIAL TRIBUNAL NO. I,  
KARKARDOOMA COURTS COMPLEX: DELHI****I.D. No. 167/2012**

Shri Ishwar Singh

S/o Shri Jai Lal,

Through The General Secretary,  
Nagar Nigam Karamchari Sangh,  
Delhi Pradesh, P-2/624, Sultanpuri,  
Delhi.

... Workman

**Versus**

The Commissioner,  
Municipal Corporation of Delhi,

Town Hall, Chandni Chowk,  
Delhi-110006.

... Management

**AWARD**

A chowkidar employed by Municipal Corporation of Delhi (in short the Corporation) claimed payment of overtime allowance, since he was made to work beyond normal duty hours. His claim was not conceded to by the Corporation. He approached the Nagar Nigam Karamchari Sangh (Delhi) (in short the union) for redressal of his grievances. The union served notice on the Corporation seeking overtime allowance for duties performed in excess of normal working hours, wages for weekly holidays, gazetted holidays and casual leaves, which notice was not responded to. A dispute was raised before the Conciliation Officer. Since the Corporation contested the claim, conciliation proceedings ended into a failure. On consideration of failure report, submitted by the Conciliation Officer, the appropriate Government referred the dispute to this Tribunal for adjudication, vide order No. L-42011/66/2012-IR(DU) dated 16/21.11.2012, with following terms:

“Whether the action of the management of Municipal Corporation of Delhi (MCD) in denying encashment of wages of weekly holidays, gazetted holidays and casual leave which are not availed by the workman, Shri Ishwar Singh, S/o Shri Jai Lal, ex-Chowkidar as the same are spent on duty during the period of service rendered by the workman with the MCD is

justified or not? If not, what relief the workman is entitled to and from which date?"

2. In the reference order, the appropriate Government commanded the parties to the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions, so given, the Chowkidar, namely, Shri Ishwar Singh opted not to file his claim statement with the Tribunal.

3. Notice was sent to Shri Ishwar Singh by registered post on 03.12.2012, calling upon him to file claim statement before the Tribunal on or before 02.01.2013. This notice was sent to him through the union, at P-2/624, Sultanpuri, Delhi, the address provided by the appropriate Government in order of reference. Neither the claimant nor the union responded to the notice, so sent.

4. Since none came forward on behalf of the claimant to file his claim statement, fresh notice was sent to him by registered post on 02.01.2013 calling upon him to file claim statement before the Tribunal on 29.01.2013. Notice was transmitted to the claimant by registered post on 31.01.2013 asking him to file his claim statement on or before 20.02.2013. Lastly, notice dated 22.02.2013 was sent by registered post commanding the claimant to file his claim statement before the Tribunal on or before 22.03.2013. Neither the postal articles, referred above, were received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notices were served upon the claimant. Despite service of these notices, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf.

5. Since onus of the question referred for adjudication was there on the Corporation, it was called upon to file its response to the reference order. Corporation filed its response, pleading therein that the dispute was not properly espoused by the union, hence liable to be rejected. It further asserted that the dispute has been raised at a belated stage, hence it became stale. The Appropriate Government cannot refer such a dispute for adjudication, as it has become stale. The dispute is liable to be rejected on this count also, claims the Corporation.

6. The Corporation projects that claimant was getting overtime allowance @ Rs. 625.00 up to a maximum of 50 hours in a month in accordance with circular dated 15.03.1997. For work performed on Sundays and holidays, the Chowkidars gets compensatory leave in lieu thereof, hence not entitled to overtime allowance. Chowkidars are entitled to 15 days casual leave, 3 national holidays and 6 other holidays of their choice in every calendar year.

Their normal duty hours are 10 hours per day and previously Chowkidars were entitled to 24 hours rest (one day) in fortnight. Now, a Chowkidar is getting overtime allowance for 100 hours per month in accordance with circular dated 09.05.2011. Details of overtime allowance granted to the claimant from June 88 to March 2013 are annexed as Annexure C with the response. In view of these facts, claimant is not entitled to any relief, claims the corporation.

7. Arguments were heard at the bar. None came forward on behalf of the claimant to advance arguments. Shri Umesh Gupta, authorized representative, assisted by Ms. Jaishri, School Inspector, raised submissions on behalf of the Corporation. I have given my careful considerations to the arguments advanced at the bar and cautiously perused the record. My findings on issues involved in the controversy are as follows:

8. At the outset, it has been argued that the dispute has not acquired status of an industrial dispute since it has not been validly espoused by the union. For an answer, definition of the term industrial dispute is to be construed. For sake of convenience, definition of the term "industrial dispute", as defined by section 2(k) of the Industrial Disputes Act, 1947 (in short the Act).

"(k) "Industrial dispute" means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person".

9. The definition of "industrial dispute" referred above, can be divided into four parts, viz. (i) factum of dispute, (2) parties to the dispute, viz.(a) employers and employers, (b) employer and workmen, or (c) workmen and workmen, (3) subject-matter of the dispute, which should be connected with -(i) employment or non-employment, or (ii) terms of employment, or (iii) condition of labour of any person, and (4) it should relate to an "industry".

10. The definition of "industrial dispute" is worded in very wide terms and unless they are narrowed by the meaning given to word "workman" it would seem to include all "employers", all "employments" and all "workmen", whatever the nature or scope of the employment may be. Therefore, except in the case where there can be a dispute between the employers and employers and workmen and workmen, one of the parties to an industrial dispute must be an employee or a class of employees. The first point, therefore, to be noted, perhaps self evident, is that the phrase "employer and workmen", the plural may include singular on either side or any permutation of singular or plural, the masculine including the feminine. In order, therefore, to determine as to whether

a controversy or difference or a dispute is an “an industrial dispute” or not, it must first be determined whether the workman concerned or workmen sponsoring his cause satisfy the conditions of clause (s) of section 2 of the Act. Here in the case, the Corporation does not dispute that the claimant is workman within the meaning of clause(s) of section 2 of the Act.

11. The Apex Court put gloss on the definition of “industrial dispute” in Dimakuchi Tea Estate [1958 (1) LLJ 500] and ruled that the expression “any person” in clause (k) of section 2 of the Act must be read subject to such limitation and qualification as arise from the context, the two crucial limitations are (i) the dispute must be a real dispute between the parties to the dispute (as indicated in the first two parts of the definition clause) so as to be capable of settlement or adjudication by one party to the dispute giving necessary relief to other, and (2) the person regarding whom the dispute is raised must be one for whose employment, non-employment, terms of employment or conditions of labour, as case may be, the parties dispute for a direct or substantial interest. Where workman raised a dispute as against their employment, the person regarding whose employment, non-employer, terms of employment or conditions of labour, the dispute is raised need not be strictly speaking “workman” within the meaning of the Act, but must be one in whose employment, non-employer, terms of employment, or conditions of labour the workmen as a class have a direct or substantial interest. The observations made by the Apex Court are to be extracted thus:

“We also agree with the expression “any person” is not co extensive with any workman, particular or otherwise, equal with other, that the crucial test is one of community of interest and the person regarding whom the dispute is raised must be one in whose employment, non-employment, terms of employment, conditions of labour (as the case may be) the parties to the dispute have a direct or substantial interest. Whether such direct or substantial interest has been established in a particular case will depend on its facts and circumstances.”

12. In Kyas Construction Company (Pvt.) Ltd. [1958 (2) LLJ 660] the Apex Court ruled that an industrial dispute need not be a dispute between the employer and his workman and that the definition of the expression “industrial dispute” is wide enough to cater a dispute raised by the employer’s workman with regard to non employment of others, who may not be employed as workman at the relevant time. The Apex Court in Bombay Union of Journalist [1961 (II) LLJ 436] has observed that in each case in ascertaining whether an individual dispute has acquired the character of an industrial dispute, the test is whether at the date of reference, the dispute was

taken up as submitted by the union of the workmen of the employer against whom, the dispute is raised by an individual workman or by an appreciable number of workmen. In order, therefore, to convert an individual dispute into an industrial dispute, it has to be established that it has been taken up by the union of employees of the establishment or by an appreciable number of the employees of the establishment. As far as union of the workmen of establishment itself is concerned, the problem of espousal by them generally presents little difficulty, since such workmen who are members of such unions generally have a continuity of interest with an individual employee who is one of their fellow workman. But difficulty arise when the cause of a workman, in a particular establishment is sponsored by a union which is not of the workmen of that establishment but is one of which membership is open to workmen of their establishment as well as in that industry. In such a case a union which has only microscopic number of the workmen as its member, cannot sponsor any dispute arising between the workmen and the management. A representative character of the union has to be gathered from the strength of the actual number of co workers sponsoring the dispute. The mere fact that a substantial number of workmen of the establishment in which the concerned workman was employee were also members of the union would not constitute sponsorship. It must be shown that they were connected together and arrived at an understanding by a resolution or by other means and collectively submitted the dispute.

13. The expression “industrial disputes” has been construed by the Apex Court to include individual disputes, because of the scheme of the Act. In Raghu Nath Gopal Patvardhan [1957(1) LLJ 27] the Apex Court ruled as to what dispute can be called as an industrial dispute. It was laid thereon that (1) a dispute between the employer and a single workman cannot be an industrial dispute, (2) it can not be per-se be an industrial dispute but may become if it is taken up by a trade union or a number of workmen. In Dharampal Prem Chand [1965 (1) LLJ 668] it was commanded by the Apex Court that a dispute raised by a single workman cannot become an industrial dispute unless it is supported either by his union or in the absence of a union by substantial number of workmen. Same law was laid in the case of Indian Express Newspaper (Pvt.) Limited [1970 (1) LLJ 132]. However in Western India Match Company [1970 (II) LLJ 256], the Apex Court referred the precedent in Drona Kuchi Tea Estate’s case [1958 (1) LLJ 500] and ruled that a dispute relating to “any person becomes a dispute where the person in respect of whom it is raised is one in whose employment, non employment, terms of employment or conditions of labour, the parties, dispute for a direct or substantial interest”.

14. What a substantial or considerable number of workmen would be in a given case, depend on particular facts of the case. The fact that an “industrial dispute”, is supported by other workmen will have to be established either in the form of a resolution of the union of which workman may be member or of the workmen themselves who support the dispute or in any other manner. From the mere fact that a general union, at whose instance an “industrial dispute” concerning an individual workman is referred for adjudication, has on its roll a few of the workmen of the establishment as its members, it cannot be inferred that the individual dispute has been converted into an “industrial dispute”. The Tribunal has therefore, to consider the question as to how many of the fellow workman actually espoused the cause of the concerned workman by participating in the particular resolution of the Union. In the absence of a such a determination by the Tribunal, it cannot be said that the individual dispute acquired the character of an industrial dispute and the Tribunal will not acquire jurisdiction to adjudicate upon the dispute. Nevertheless, in order to make a dispute an industrial dispute, it is not necessary that there should always be a resolution of substantial or appreciable number of workmen. What is necessary is that there should be some express or collective will of a substantial or an appreciable member of the workmen treating the cause of the individual workman as their own cause. Law to this effect was laid in P.Somasundrameran [1970 (1) LLJ 558].

15. It is not necessary that the sponsoring union is a registered trade union or a recognized trade union. Once it is shown that a body of substantial number of workmen either acting through a union or otherwise had sponsored the workman’s cause, it is sufficient to convert it into an industrial dispute. In Pardeep Lamp Works [1970 (1) LLJ 507] complaints relating to dispute of ten workmen were filed before the Conciliation Officer by the individual workmen themselves. But their case was subsequently taken up by a new union formed by a large number of co-workmen, if not a majority of them. Since this union was not registered or recognized, the workmen elected five representatives to prosecute the cases of ten dismissed workmen. Thus cases of the dismissed workmen were espoused by the new union, yet unregistered and unrecognized. The Apex Court held that the fact that these disputes were not taken up by a registered or recognized union does not mean that they were not “industrial dispute”.

16. It is not expedient that same union should remain in charge of that dispute till its adjudication. The dispute may be espoused by the workmen of an establishment, through a particular union for making such a dispute an “industrial dispute”, while the workman may be represented before the Tribunal for the purpose of section 36 of the Act by a member of executive or office bearer of altogether another union. The crux of the matter is that the

dispute should be a dispute between the employer and his workmen. It is not necessary that the dispute must be espoused or conducted only by a registered trade union. Even if a trade union ceases to be registered trade union during the continuance of the adjudication proceedings that would not affect the maintainability of the order of reference. Law to this effect was laid by the High Court of Orissa in Gammon India Limited [1974 (II) LLJ 34]. For ascertaining as to whether an individual dispute has acquired character of an individual dispute, the test is whether on the date of the reference the dispute was taken up as supported by the union of the workmen of the employer against whom the dispute is raised by the individual workman or by an appreciable number of the workman. In other words, the validity of the reference of an industrial dispute must be judged on the facts as they stood on the date of the reference and not necessarily on the date when the cause occurs. Reference can be made to a precedent in Western India Match Co.Ltd. [1970 (II) LLJ 256].

17. Here in the case, not even an iota of facts are brought over the record to the effect that the union took up the cause of the claimant as their own. It is also not shown that the members of the union had shown their collective will in favour of the cause of the claimant. Thus it is evident that there is a complete vacuum of facts to the effect that the union espoused the cause of the claimant. Resultantly there is no material to conclude to the effect that the dispute acquired status of an industrial dispute. The reference is liable to be answered against the claimant on that score.

18. Next count of attack made by the Corporation that the dispute was raised by the claimant after 13 years, which frustrates the relief in his favour. Section 10 (1) of the Act does not prescribe any period of limitation for making reference of the dispute for adjudication. The words ‘at any time’ used in sub-section (1) of section 10 of Act does not admit of any limitation in making an order of reference. Law of limitation, which might bar any Civil Court from giving remedy in respect of lawful rights, cannot be applied by Industrial Tribunals. However, policy of industrial adjudication is that stale claim should not be generally encouraged or allowed unless there is satisfactory explanation for delay. In Shalimar Works Ltd. [1959 (2) LLJ 26], the Apex Court pointed out that though there is no limitation prescribed in making reference of the dispute to Industrial Tribunal, even so, it is only reasonable that disputes should be referred as soon as possible after having arisen and on failure of conciliation proceedings. In Western India Match Company [1970 (2) LLJ 256] the Apex Court observed that in exercising its discretion, Government will take into account time which has lapsed between its earlier decision and the date when it decides to consider it in the interest of justice and industrial peace to make the reference for adjudication. Same view was

taken in Mahabir Jute Mills Ltd. [1975 (2) LLJ 326]. In Gurmail Singh [2000 (1) LLJ 1080] Industrial Adjudicator dismissed the reference on the ground that there was delay of 8 years in raising the dispute, which delay was condoned by the Apex Court and it was ordered that the workman would not be entitled to any back wages for the period of 8 years but would be entitled to 50% of wages from the date it raised the dispute till the date of his reinstatement. In Prahilad Singh [2000 (2) LLJ 1653], the Apex Court approved the award of the Tribunal in not granting any relief to the workman who preferred the claim after a period of 13 years without any reasonable or justifiable grounds. In Nedungadi Bank Ltd. [2002 (2) SCC 4] a lapse of seven years in raising the dispute was held to be a factor to refuse the relief. The Apex Court ruled that the appropriate Government has to exercise its powers of referring the dispute in a reasonable manner. Delay of seven years made the Court to conclude that there was no dispute existing or apprehended when decision was taken to refer it for adjudication. Same view was taken in Haryana State Co-operative Land Development Bank [2005 (5) S.C.C. 91]. From above decisions, it can be said that the law relating to delay in raising or reference of dispute is bereft of any principles, which can be easily comprehended by the litigants.

19. Claimant raised the dispute in respect of overtime allowance paid to him with effect from 01.01.1997. Thus, it is emerging over the record that the claimant had raised the dispute after a long gap of 13 years. No explanation is offered for this inordinate delay. It appears that there was no industrial dispute in existence or could be even said to have been apprehended in the year 2012, when the appropriate Government applied its mind to the facts of the present controversy.

20. Corporation contests the dispute on the count that no notice of demand was served on it prior to raising a dispute before the Conciliation Officer. These facts also remained uncontested. The object of the Act is to protect workman against victimization by the employer and ensure termination of industrial dispute in a peaceful manner. The Act, however, does not provide for any set of social and economic principles for adjustment of conflicting interests. Such norms have been evolved and devised by industrial adjudication, keeping in view the social and economic conditions, the needs of the workmen, the requirement of the industry, social justice, relative interests of the parties and common good. These norms have given rights to the industrial employees what may be called industrial rights, as such rights may not be available at common law. Disputes as to the conditions of employment can be resolved by resorting to a technique known as collective bargaining. This tool is resorted to between an employer or group of employers and a bona fide labour union. Policy behind this is to protect workmen as a class against unfair labour practices. What imparts to the dispute

of a workman the character of an “industrial dispute” is that it affects the right of the workmen as a class.

21. An industrial dispute comes into existence when the employer and the workman are at variance and the dispute/difference is connected with the employment or non-employment, terms of employment or with conditions of labour. In other words, dispute or difference arises when a demand is made by the workman on the employer and it is rejected by him and vice versa. In Sindhu Resettlement Corporation Ltd. [1968(1) LLJ 834], the Apex Court has held that mere demand, asking the appropriate Government to refer a dispute for adjudication, without being raised by the workmen with their employer, regarding such demand, cannot become an industrial dispute. Hence, an industrial dispute cannot be said to exist until and unless a demand is made by the workman or workmen on the employer and it has been rejected by him. In Fedders Lloyd Corporation Pvt. Ltd. [1970 Lab.I.C.421], High Court of Delhi went a step ahead and held that “... demand by the workman must be raised first on the management and rejected by it, before an industrial dispute can be said to arise and exist and that the making of such a demand to the Conciliation Officer and its communication by him to the management, who rejected the demand, is not sufficient to constitute an industrial dispute.”

22. The above decision was followed by Orissa High Court in Orissa Industries Pvt. Ltd. (1976 Lab.I.C. 285) and Himachal Pradesh High Court in Village Paper Pvt. Ltd.(1993 Lab.I.C. 99). However, the Apex Court in Bombay Union of Journalists [1961 (2) LLJ 436] had ruled that an industrial dispute must be in existence or apprehended on the date of reference. If, therefore, a demand has been made by the workman and it has been rejected by the employer before the date of reference, whether direct or through the Conciliation Officer, it would constitute an industrial dispute. In Shambunath Goyal [1978(1) LLJ 484], the Apex Court appreciated facts that the workman had not made a formal demand for his reinstatement in service. However, he had contested his dismissal before the Enquiry Officer and claimed reinstatement. Against the findings of the Enquiry Officer, he preferred an appeal to the Appellate Authority, claiming reinstatement on the ground that his dismissal was bad in law. Then again, he claimed reinstatement before the Conciliation Officer in the course of conciliation proceedings, which was contested by the employer. Appreciating all these facts, the Apex court inferred that there was impeccable evidence that the workman had persistently demanded reinstatement, rejection of which brought an industrial dispute into existence.

23. In New Delhi Tailor Mazdoor Union [1979(39) FLT 195], High Court of Delhi noted that Shambunath Goyal had not overruled Sindhu Resettlement Pvt. Ltd. But it had distinguished it on facts. It was also pointed

out that decision of three Judges bench in Sindhu Resettlement Pvt. Ltd. could not have been overruled by two Judge bench in Shambunath Goyal. The High Court concluded that decision in Sindhu Resettlement Pvt. Ltd., in case of any conflict between the two decisions, must prevail. The High Court held that making of the demand by the workman on the management was sine qua non for giving rise to an industrial dispute.

24. The High Court of Madras in Management of Needle Industries [1986(1) LLJ 405] has held that dispute or difference between management and the workman, automatically arises when the workman is dismissed from service. His dismissal per se creates a dispute or difference between the management and the workman. The Court further observed that "it is nowhere stipulated in the Act, particular in section 2(k), that existence of the dispute as such is not enough but then there should be a demand by the workman on the management to give rise to an industrial dispute". However, this decision appears to be inconsistent with the ratio of decision in Bombay Union of Journalists(supra) and Sindhu Resettlement (supra). No doubt, for existence of an industrial dispute, there should be a demand by the workman and refusal to grant it by the management. However, a demand should be raised, cannot be a legal notion of fixity and rigidity. Grievances of the workman and demand for its redressal must be communicated to the management. Means and mechanism of the communication adopted are not matters of much significance, so long as demand is that of the workman and it reaches the management. Reference can be made to the precedent in Ram Krishna Mills Coimbatore Ltd. [1984 (2) LLJ 259].

25. The Act nowhere contemplates that the industrial dispute can come into existence in any particular, specific or prescribed manner nor there is any particular or prescribed manner in which refusal should be communicated. For an industrial dispute to come into existence, written claim is not sine qua non. To read into the definition, requirement of written demand for bringing an industrial dispute into existence would tantamount to rewriting the section, announced the Apex Court in Shambunath Goyal(supra). In other words, oral demand and its rejection will as much bring into existence an industrial dispute, as written one. If facts and circumstances of the case show that the workman had been making a demand, which the management had been refusing to grant, it can be said that there was an industrial dispute between the parties.

26. Since the claimant had not come forward to project that demand notice was served on the corporation, under these circumstances, stand taken by the Corporation is to be believed. Corporation projects that no notice of demand was served on it, before industrial dispute was raised before the Conciliation Officer. Thus, it is emerging

over the record that it has not been established that demand was raised on the corporation, which was rejected by it and as such, dispute has not acquired status of an industrial dispute.

27. Turning to facts presented by the Corporation, it emerges that the Corporation takes 10 hours duty from Chowkidars. Keeping in view the nature of duties performed, the Corporation was paying intermittent allowance to Chowkidars for performing more than 10 hours duty. Allowance was paid @ Rs.130.00 per month for performance of duty up to 12 hours, Rs.180.00 per month for duties performed for more than 12 hours but up to 16 hours and Rs.190.00 per month for performing duties more than 16 hours a day. Workers union agitated the issue and demanded overtime allowance in lieu of intermittent allowance. On the basis of the resolution, the Corporation, vide its decision dated 15.03.1997 decided to pay overtime allowance to the maximum limit of 50 hours. The said allowance was paid @Rs.625.00 per month. Workers union further demanded enhancement of maxima limit of overtime allowance and in consideration of the said demand, the Corporation started paying overtime allowance with a cap of 100 hours a month. Now, the Corporation is paying overtime allowance to Chowkidars at Rs.1250.00, in pursuance of Office Order dated 09.05.2011.

28. Annexure C, when scanned, highlights that from January 98 till March 2011, overtime allowance was paid to the claimant @ Rs.625.00 per month. From April 2011 till March 2013, overtime allowance has been paid to the claimant @ 1250.00 per month. Therefore, it is emerging over the record that overtime allowance is being paid to the claimant in accordance with the circulars, issued by the Corporation from time to time.

29. In view of the above reasons, it is evident that the action of the Corporation in paying overtime allowance to the claimant @ Rs.625.00 per month till March 2011 and thereafter Rs.1250.00 till date is in accordance with the circulars issued from time to time. Claimant is not entitled to overtime allowance more than the amount referred above. Resultantly, action of the Corporation is found to be justified. No relief is available to the claimant. An award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated : 20.12.2014

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 30 मई, 2014

**का.आ. 1709.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डायरेक्टर, पोस्टल सर्विस, रायपुर एवं आथर्स के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के

पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/08/93) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/5/2014 को प्राप्त हआ था।

[सं. एल-40011/23/91-आईआर (डीयू) ]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 30th May, 2014

**S.O. 1709.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. CGIT/LC/R/08/93) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Director, Postal Service, Raipur and Others and their workmen, which was received by the Central Government on 29/05/2014.

[No. L-40011/23/91-IR(DU)]

P. K. VENUGOPAL, Section Officer

## **ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR**

NO. CGIT/LC/R/8/93

**SHRI R.B.PATLE, Presiding Officer**

Shri R.P.Mishra, Secretary,  
Bhartiya Dak Karmachari Sangh,  
Class-III, 517, B.T.Road, Garha,  
Jabalpur . . . Workman

Versus

Director,  
Postal service, Raipur.  
Sr.Superintendent of Post Office,  
Jabalpur Division,  
Jabalpur . . . Managements

## AWARD

Passed on this 29th day of April, 2014

1. As per letter dated 7-1-93 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-40011/23/91-IR(DU). The dispute under reference relates to:

“ Whether the action of Sr.Superintendent of Post Office, Jabalpur Division, Jabalpur MP in not revising subsistence allowance after 3 months during suspension period of Shri R.P.Mishra, Asstt. Post Master is legal and justified? If not, to what relief the workman is entitled for?”

2. After receiving reference, notices were issued to the parties. 1st party workman submitted statement of claim at Page 4/1 to 4/4. Case of workman is that he was appointed as P.A in postal department on 10-12-59. He rendered 35 years service. That during past 10-12 years, he was office bearer of the Union. He was taking active part in Union activities. Consequently the higher authorities developed prejudice against him. He was subjected to harassment without his fault. That he was placed under suspension on 8-2-91 by Sr. Suptd. of Post. That charter of demand was submitted to Sr. Suptd. of Post Office on 3-7-91 for settlement. Conciliation proceeding was initiated before ALC, Jabalpur. That Writ petition No. MOC-562 of 1985 was filed before Hon'ble High Court at Jabalpur. Judgment was delivered in favour of the workman. The administrative authorities made prestige point that workman had filed contempt of court. The authorities got annoyed by filing said petition.

3. Workman further submits since revocation of his suspension, he requested authorities for his posting at Jabalpur while he was posted at Katni Head Post Office. Director of postal service did not take any notice of his request. He was put to financial hardships. That he had requested Competent Authority to renew order of his suspension time to time after expiry of 90 days suspension but no action was taken on his request. On such ground, workman prays that suspension period be treated as duty period for all purpose and suspension allowance be granted after expiry of 90 days period.

4. IIInd party filed Written Statement at page 5/1 to 5/4. IIInd party raised preliminary objection that Ist party is not covered as workman under I.D.Act as salary of Ist party is more than Rs.1600/- per month. The grievance of workman falls within jurisdiction of CAT. Provision of I.D.Act are not applicable to IIInd party in view of rules framed under Article 307 & 309 of the constitution. It is not disputed that Ist party was employee of the department. He is retired on 28-2-95. Ist party workman was placed under suspension on 8-2-91 for disciplinary action on account of lapses. The enquiry is pending. Workman was reinstated on 10-9-92. His suspension period can only be regularized after final outcome of the proceeding. All other contentions of workman in that regard are denied. Workman had proceeded on leave submitting medical certificate dated 16-6-86. The licence fee is admissible to Govt. servant who are posted as in-charge of office and entitled for free residential accommodation. In case no accommodation is available, licence fee is paid to such Govt. servant, workman was transferred and posted at Jabalpur in subordinate capacity. He was not entitled to rent free accommodation or licence fee in lieu thereof. The claim of Ist party workman to treat suspension period as duty period for all purpose including

promotion will be decided after the final outcome of the proceeding. The review of suspension allowance after expiry of 90 days was carried out and enhanced to 20 % of subsistence allowance as per memorandum dated 3-6-92. Said claim was raised by workman before CAT, Jabalpur in Case No. 215/92. Therefore same claim cannot be adjudicated in view of bar of res-judicata. On such grounds. IIInd party prays for rejection of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below :

(i)	Whether the action of Sr. Superintendent of Post Office, Jabalpur Division, Jabalpur MP in not revising subsistence allowance after 3 months during suspension period of Shri R.P.Mishra, Asstt. Post Master is legal and justified?	In Affirmative
(ii)	If not, what relief the workman is entitled to?"	Workman is not entitled to relief prayed by him.

### REASONS

6. The workman has raised dispute about denial of review of subsistence allowance after 90 days during period of his suspension. IIInd party denied claim of workman on the ground that review of subsistence allowance was already made. 20 % subsistence allowance was paid. Workman had failed to participate in the proceeding. No evidence is adduced by workman. Management also failed to adduce evidence. Evidence of management is closed on 1-10-2013. Parties remain absent. In absence of evidence to substantiate claim of workman, I record my finding on Point No.1 in Affirmative.

7. In the result, award is passed as under:-

- (1) The action of Sr.Superintendent of Post Office, Jabalpur Division, Jabalpur MP in not revising subsistence allowance after 3 months during suspension period of Shri R.P.Mishra, Asstt. Post Master is legal and proper.
- (2) Workman is not entitled to relief prayed by him.

8. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

R. B. PATLE, Presiding Officer

नई दिल्ली, 30 मई, 2014

**का.आ. 1710.**—ऑद्योगिक विवाद अधिनियम, 1947 ( 1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एंजीव्हूटिव अफसर, मऊ कैंटोनमेंट बोर्ड, मऊ के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट ( संदर्भ संख्या सीजीआईटी/एलसी/आर/167/00 ) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/5/2014 को प्राप्त हुआ था।

[ सं. एल-13012/5/2000-आईआर (डीयू) ]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 30th May, 2014

**S.O. 1710.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. CGIT/LC/R/167/00) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Executive Officer, Mhow Cantonment Board, Mhow and their workmen, which was received by the Central Government on 29/05/2014.

[No. L-13012/5/2000-IR(DU)]

P. K. VENUGOPAL, Section Officer

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

#### NO. CGIT/LC/R/167/00

SHRI R.B.PATLE, Presiding Officer

Shri Yogesh S/o Mohanlal Arya,  
1990, Bhoi Mohalla,  
Mhow.

... Workman

### Versus

Executive Officer,  
Mhow Cantt. Board,  
Mhow,  
Indore

... Management

### AWARD

Passed on this 12th day of May 2014

1. As per letter dated 25-9-00 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-13012/5/2000-IR(DU). The dispute under reference relates to:

“ Whether the action of the management of Mhow Cantonment Board in terminating the services of

Shri Yogesh Arya S/o Mohanlal Arya w.e.f. 6-6-98 is justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. workman submitted statement of claim at Page 2/1 to 2/3. The case of Ist party workman is that he was engaged on the post of junior clerk from 23-10-96 by Executive Officer of IIInd party Mr. Mohinderlal. Appointment order in writing was not given to him. His attendance was recorded. He was paid salary Rs. 1653/- under voucher. His services were discontinued from 5-6-98. Onkarlal Dhakone Accountant told him that as per directions of Chief Officer Rajeev Srivastava, his services were terminated. He should not attend office from 6-6-98. On his request termination order in writing was not given to him. His services were orally terminated. That he had completed 240 days continuous service. His services were terminated without notice, without paying retrenchment compensation in violation of Section 25-F of I.D.Act. Junior employees were continued on work. His services were terminated in violation of Section 25-G of I.D.Act. Workman prays for reinstatement with back wages.

3. IIInd party filed Written statement at Page 5/1 to 5/5. IIInd party denied claim of the Ist party workman. It is submitted that appointment in IIInd party are made as per Cantonment Fund Servant Rules 1937. Circulars issued on 10-2-88 & 27-8-98. Ist party workman was got appointed in compliance of above circulars. Even for engaging a person on daily wages, it is necessary to call names from Employment Exchange. Name of workman was not called from Employment Exchange. Appointment letter was not given to him. The vacancy was not displayed on notice board. Workman is son of Mohanlal who was working with IIInd party. He got his appointment illegally as clerk in violation of rules. The record shows that he was paid daily wages for some period. Workman was not illegally appointed. After new chief officer joined, the workman was not appointed as clerk. On such ground, IIInd party prays for rejection of claim.

4. Workman filed rejoinder at Page 10/1 to 10/2 reiterating his contentions in statement that he was appointed as clerk and he was continuously working. His services were terminated without notice, retrenchment compensation was not paid to him.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below :

- |   |                |
|---|----------------|
| (i) Whether the action of the management of Mhow Cantonment Board in terminating the services of Shri Yogesh Arya S/o Mohanlal Arya w.e.f. 6-6-98 is justified? | In Affirmative |
|---|----------------|

- |   |  |
|---|--|
| (ii) If not, what relief the workman is entitled to?" | Workman is not entitled to relief prayed by him. |
|---|--|

## REASONS

6. In support of his claim, workman filed affidavit of his evidence. He has stated that he was appointed as junior clerk with IIInd party by Executive Officer. Appointment order in writing was not received. He was working till 4-6-98. He was paid salary Rs. 1653/- per month. He was continuously working during above said period. His submissions were orally terminated without notice. No retrenchment compensation was paid. In his cross-examination, workman says no appointment letter was given to him. He was doing work of recovery of tax and tax posting of tax. He was working in accounts section. He was preparing bills, general receipts making, public notice was issued before appointment. He has not submitted application for the post. His name was not sponsored through Employment Exchange. He had not appeared for written test, oral interviews. His submissions were orally terminated. He did not request for re-appointment. In 1998, post of Sr. Clerk was advertised. He submitted application for such post. He appeared for written test, he was called for interview. When he was not selected, he filed present reference. The evidence of workman shows that any kind of recruitment process was not followed, appointment letter is not produced.

7. Management filed affidavit of Shri Ram Narayan Koushal working as Superintendent. He has stated in his affidavit that for appointment on daily wages, names are called from Employment Exchange. Name of workman was not sponsored through Employment Exchange. permission for appointment was not obtained. He supported contentions of management that workman was not working as employee. He himself left office after joining of new Chief Officer. Evidence of management witness remained unchallenged. I do not find reason to disbelieve the evidence. Considering evidence, appointment of workman for the post of Jr. clerk cannot be said legal. His evidence is not cogent about his working as Jr.Clerk on 23-10-96 till 4-6-98. Documents submitted by workman with list, no effort is taken for proving these documents. As the evidence is not reliable, claim of workman cannot be accepted. therefore I record my finding in Point No.1 in Affirmative.

8. In the result, award is passed as under:-

- (1) The action of the management of Mhow Cantonment Board in terminating the services of Shri Yogesh Arya S/o Mohanlal Arya w.e.f. 6-6-98 is legal.
- (2) Relief prayed by workman is rejected.

R. B. PATLE, Presiding Officer

नई दिल्ली, 30 मई, 2014

**का.आ. 1711.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिप्टी डायरेक्टर, मिलिट्री फार्म्स, हेडक्वार्टर, सेंट्रल कमांड, लखनऊ एवं आर्थस के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/61/02) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/5/2014 को प्राप्त हुआ था।

[सं. एल-14012/91/2001-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 30th May, 2014

**S.O. 1711.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. CGIT/LC/R/61/02) of the Central Government Industrial Tribunal/ Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Deputy Director, Military Farms, Hqr., Central Command, Lucknow and Others and their workmen, which was received by the Central Government on 29/05/2014.

[No. L-14012/91/2001-IR(DU)]

P. K. VENUGOPAL, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

#### NO. CGIT/LC/R/61/2002

SHRI R.B.PATLE, Presiding Officer

Shri Wisheshwar Prasad,  
Plot No.9, Peat Road,  
Tehsil Mhow,  
Indore

... Workman

#### Versus

Dy. Director,  
Military Farms, Hqr.,  
Central Command,  
Lucknow(UP)  
The Officer-Incharge,  
Military Farms,  
Mhow

... Management

#### AWARD

Passed on this 9th day of May, 2014

1. As per letter dated 3-4-2002 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-14012/91/2001-IR(DU). The dispute under reference relates to:

“ Whether the action of the management of Dy. Director, Military Farms in terminating the services of Shri Wisheshwar Prasad S/o Shri Pancham w.e.f. 10-6-97 and not regularizing him even after completing 240 days in a calendar year is justified? If not, to what relief the workman is entitled for?”

2. After receiving reference, notices were issued to the parties. During pendency of reference, workman died on 20-7-03, his LRs are brought on record. Statement of claim is filed by LR of deceased at Page 12/1 to 12/2. The case of LRs of deceased is that since past 6-7 years, he is working as Security Guard in place of his father. His wages are paid by contractor. He prays for his appointment in place of his father as Security Guard.

3. IIInd party failed to file Written Statement. IIInd party is proceeded ex parte on 14-12-2010.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below :

		In Affirmative
(i)	Whether the action of the management of Dy. Director, Military Farms in terminating the services of Shri Wisheshwar Prasad S/o Shri Pancham w.e.f. 10-6-97 and not regularizing him even after completing 240 days in a calendar year is justified?	
(ii)	If not, what relief the LR of deceased workman is entitled to?”	LR is not entitled to relief prayed by him.

#### REASONS

5. The terms of reference relates to legality of termination of service of Shri Wisheshwar Singh by IIInd party and not regularizing his service even after completing 240 days continuous service. Workman died during pendency of reference proceeding. His LR is brought on record. The claim submitted by LR is absolutely silent about illegality of termination of services of deceased workman. LR has pleaded appointment in place of his

father. He has also pleaded that he is working Security Guard in place of his father. His wages are paid by contractor. Thus the point under reference is not covered in the pleadings filed by LR.

6. The affidavit of evidence filed by LR Omprakash has stated that his father died on 20-7-03. His father was working in Military Farm, Mhow as Security Guard. That he is working as Security Guard in Dairy Farm. His father was working for 20 years in the Military Farm. He was paid salary Rs.300/- per month in 1987, Rs.900/- during 1988 to 1995, Rs.2000/- was paid onwards till 13-7-07. His father was continuously working. His father was eligible for permanency. He prays for his appointment on compassionate ground. Thus pleading and evidence are not consistent. There is absolutely no evidence about illegality of the order of termination of the father of deceased workman. Therefore I record my finding in Point No.1 in Affirmative.

7. In the result, award is passed as under:-

- (1) The action of the management of Dy. Director, Military Farms in terminating the services of Shri Wisheshwar Prasad S/o Shri Pancham w.e.f. 10-6-97 and not regularizing him even after completing 240 days is legal and proper.
- (2) Relief prayed by LR of deceased workman for compassionate appointment is rejected.

8. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

R. B. PATLE, Presiding Officer

नई दिल्ली, 30 मई, 2014

**का.आ. 1712.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कैंटोनमेंट एजीक्यूटिव अफसर, कैंटोनमेंट बोर्ड, महो के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/23/06) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/5/2014 को प्राप्त हुआ था।

[सं. एल-13012/4/2005-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 30th May, 2014

**S.O. 1712.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. CGIT/LC/R/23/06) of the Central Government Industrial Tribunal/ Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation

to the management of the Cantonment Executive Officer, Cantonment Board, Mhow and their workmen, which was received by the Central Government on 29/05/2014.

[No. L-13012/4/2005-IR(DU)]

P. K. VENUGOPAL, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

#### NO. CGIT/LC/R/23/2006

SHRI R. B. PATLE, Presiding Officer

General Secretary,  
Suraksha Asainik Karmchari Sangh,  
Garden No.19, Peat Road,  
Mhow. . . Workman/Union

#### Versus

Cantonment Executive Officer,  
Cantonment Board,  
Mhow. . . Management

#### AWARD

Passed on this 12th day of May, 2014

1. As per letter dated 14-6-06 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-13012/4/2005-IR(DU). The dispute under reference relates to:

“ Whether the action of the management of Cantonment Executive Officer, Cantonment Board, Mhow in terminating the services of Shri Mukesh Kumar Pandey w.e.f. 1998 is justified? If not, to what relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. workman submitted statement of claim at Page 3/2 to 3/6. Case of workman is that he was working as Coolie/Helper at drinking water supply pump house at cantonment Board Mhow. He was paid Rs.1200/- per month. He was working with IIInd party from October 1996 to 1998. He was selected for the post of Helper/Coolie after passing prescribed tests/interview conducted by the appropriate authorities of Cantt Board Mhow. That he had successfully completed trial duties rendered to the entire satisfaction of controlling authorities. That he completed services without any complaints. That he was within prescribed age limit. He was possessing technical qualification for the post of Helper/Coolie at drinking water motor pump house to operate electric motor. That he had adequate electrical knowledge and experience of wager supply work. His services were terminated in violation of scheme for regularization of casual employees

1993. If he had completed more than 240 days service, his services are illegally terminated. Workman prays for reinstatement with consequential benefits.

3. IIInd party filed Written Statement. Case of IIInd party is that Ist party workman was engaged on daily wages in October 1996 at wages Rs.43.90 per day. His engagement was as per requirement of work. Procedure for appointment of regular employee was not followed. Workman was engaged on daily wages. He worked for 8 days in August 1996, 21 days in November 1996, 27 days in December 1996. His working days in 1997-98 are shown by IIInd party. Working days of workman were 56 days in 1996, 105 days in 1997, 128 days in 1998. Workman had not completed 240 days continuous service. On such ground, IIInd party prays for rejection of claim.

4. Workman filed rejoinder reiterating his contentions in Statement of claim. IIInd party has not quoted any authority under which no appointment letter is to be issued. It is reiterated that he was continuously working from October 1996 till 1998. IIInd party has not followed procedure for regularization of services of workman.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below :

(i)	Whether the action of the management of Cantonment Executive Officer, Cantonment Board, Mhow in terminating the services of Shri Mukesh Kumar Pandey w.e.f. 1998 is justified?	In Affirmative
(ii)	If not, what relief the workman is entitled to?"	Relief prayed by workman is rejected.

### REASONS

6. In support of his claim, workman filed affidavit of his evidence. He has stated that he was appointed as helper in October 1996 on monthly pay Rs.1200/- . That the services were orally discontinued from December 1998. Prior to it, he was continuously working for more than 240 days. He was paid nominal pay for about 3 years. Workman failed to appear for his cross-examination. Thereafter party did not participate in reference proceeding. Evidence of workman cannot be considered as he failed to appear for his cross-examination. Ordersheet dated 14-10-10 shows that workman was absent since long. The case was fixed for cross-examination of workman, it shows that workman had no interest. His evidence was closed. The evidence of workman will not be looked into. Thus the claim of workman

is not supported by any evidence. Therefore I record my finding in Point No.1 in Affirmative.

7. In the result, award is passed as under :

- (1) The action of the management of Cantonment Executive Officer, Cantonment Board, Mhow in terminating the services of Shri Mukesh Kumar Pandey w.e.f. 1998 is legal.
- (2) Relief prayed by workman is rejected.

R. B. PATLE, Presiding Officer

नई दिल्ली, 30 मई, 2014

**का.आ. 1713.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सुपरिनेटेन्ट ऑफ पोस्ट ऑफिस, डिपार्टमेंट ऑफ पोस्ट, बिलासपुर डिवीजन के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/181/93) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/5/2014 को प्राप्त हुआ था।

[ सं. एल-40012/96/92-आईआर (डीयू) ]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 30th May, 2014

**S.O. 1713.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. CGIT/LC/R/181/93) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Suptd. of Post Office, Deptt. of Post, Bilaspur Division and their workman, which was received by the Central Government on 29/05/2014.

[No. L-40012/96/92-IR(DU)]

P. K. VENUGOPAL, Section Officer

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

#### NO. CGIT/LC/R/181/93

SHRI R. B. PATLE, Presiding Officer

Shri Sanatram Patre,  
Ex-Branch Postman,  
Munmuna (Pandariya),  
Distt. Bilaspur (CG)

... Workman

Versus

Suptd. of Post Office,  
Dept. of Post,  
Bilaspur Division,  
PO & Distt. Bilaspur (CG) . . . Management

### AWARD

Passed on this 25th day of April 2014

1. As per letter dated 8-9-93 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-40012/96/92-IR(DU). The dispute under reference relates to:

“Whether the action of the management of Superintendent of Post Office, Bilaspur in terminating the services of Shri Sanat Ram EDA w.e.f. 30-12-89 is justified? If not, what relief he is entitled to?”

2. After receiving reference, notices were issued to the parties. Workman submitted his statement of claim. However the parties are not shown correctly. Workman should have shown as Ist party and Suptd. of Post Office as IIInd party. Party shall be referred in the later part of judgment. Case of workman is that he was illegally terminated, he was not allowed assistance of legal practitioner or co-worker even after his request. He was not allowed permission to cross-examine the witnesses of the management. Copies of documents were not supplied by Enquiry Officer. That Enquiry Officer was friend of Shri M.K.Jain, Postal Inspector. Enquiry was not conducted properly. Enquiry Officer tried to save Mr. Devangan. Workman has submitted application for change of Enquiry Officer, his request was not considered. Workman further submits that amount of bicycle rent is recovered. He had paid amount of Rs. 60/- . He also submits that his character is good, certificates are issued by Sarpanch and Ex-Sarpanch of his village. That he was involved in the matter. He claims to be innocent. His services are illegally terminated. On such ground, workman prays for his reinstatement with consequential benefits.

3. IIInd party management filed Written Statement. IIInd party denied all material allegations of workman that enquiry was conducted against workman as per rules. Chargesheet was issued to him. Workman was put on the duty by Regional Office. The witnesses of the management were presently cross-examined by workman. The documents shown in the chargesheet were supplied to workman by Enquiry Officer. That Mr. M.K.Jain was not Enquiry Officer. He had inquired into the allegations in complaint issued against workman. No application was received by Enquiry Officer for change of Enquiry Officer. The documents were supplied to workman on 30-4-90. Certificates submitted by workman about his innocence are not relevant. For proved charges, workman was dismissed from service.

4. Workman filed rejoinder at Page 8/1 to 8/3 reiterating his contentions in Statement of Claim. That enquiry conducted against him was not fair and proper.

5. My predecessor decided preliminary issue on 8-8-2011 and found that the Departmental Enquiry conducted by management against workman is not proper and legal.

6. Considering pleadings and findings on preliminary issue, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below :

(i)	Whether the IIInd party management proves misconduct against workman?	In Negative
(ii)	Whether punishment of termination of service of workman w.e.f. 30-12-89 is justified?	In Negative
(ii)	If so, to what relief the workman is entitled to?”	As per final orders.

### REASONS

7. As per order dated 8-8-2011, enquiry conducted by management against workman is found not legal and proper. Management was required to prove the charges by adducing evidence. Workman filed affidavit of evidence. He has stated that he was terminated from service. The charge was not proved against him. No enquiry was conducted against Mr. Dewangan and Inspector Mungeri. The punishment imposed against him is exorbitant. In his cross-examination workman says at the time of his termination, he was working at village Munmuna. He was doing writing work in Post Office. He reiterates that he was terminated in false allegations. Shri M.K.Jain was Sub Post Master. He was not witness in the matter. That he was in charge of the record. While proceeding on leave, he was handing over charge to the officer.

8. Management filed affidavit of witness Thakur Ramdeon. Witness of the management has stated in his affidavit that Enquiry Officer conducted enquiry properly. Presenting Officer was appointed. Workman himself cross-examined witnesses. That Mr. M.K.Jain was not Enquiry Officer. Santram Patre, Ex Branch Post Master was directed to make enquiry against workman. After enquiry charges against workman were found proved. Workman was terminated from service. In his cross-examination management's witness says he is not acquitted with workman. He doesnot know what work was done by the workman. He claims ignorance whether amount as per receipt 89 was paid or not. The enquiry was made about

tearing two money order receipts. The witness of the management has no personal knowledge. The management has not produced record of enquiry. No effort is taken to examine witnesses about the alleged misconduct. The evidence of management's witness does not disclose exactly what was the charge alleged against workman. Any witness is about the incident of misconduct are not examined by management. The evidence of management's witness is absolutely not relevant to any of the misconduct rather it is devoted about the enquiry conducted against workman. In view of order on preliminary issue dated 8-8-2011, management was required to adduce evidence to prove charge against workman but no evidence is adduced on the point.

9. The written notes of argument submitted by parties does not refer to any evidence against workman. In absence of evidence about the misconduct alleged against workman, the charge against workman cannot be proved. Therefore I record my finding in Point No.1 in Negative.

10. Point No.2 & 3- workman is terminated from service. However as per my finding on Point No.1, any misconduct alleged against workman cannot be proved therefore termination of service cannot be said legal. The order of termination of workman deserves to be quashed and set-aside. As misconduct is not proved and workman is terminated from service, it would be appropriate to reinstate workman. The question arises whether workman should be awarded back wages. The evidence of workman is absolutely silent what work he was doing after termination from service. IIInd party has also not adduced evidence whether workman was in gainful employment. Considering above aspects of evidence in my considered view, reinstatement of workman with 40 % back wages would meet the ends of justice. Accordingly I record my finding in Point No.2,3.

11. In the result, award is passed as under:-

- (1) The action of the management of Superintendent of Post Office, Bilaspur in terminating the services of Shri Sanat Ram EDA w.e.f. 30-12-89 is illegal and is set-aside.
- (2) IIInd party is directed to reinstate workman with continuity of service with 40 % back wages.

12. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

R. B. PATLE, Presiding Officer

नई दिल्ली, 30 मई, 2014

**का.आ. 1714.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कमांडेंट,

मिलिट्री कॉलेज ऑफ टेक्निकल इंजीनियरिंग, मऊ के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/123/05) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/5/2014 को प्राप्त हुआ था।

[ सं. एल-14012/5/2005-आईआर (डीयू) ]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 30th May, 2014

**S.O. 1714.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. CGIT/LC/R/123/05) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Commandant, Military College of Technical Engineering, Mhow and their workman, which was received by the Central Government on 29/05/2014.

[No. L-14012/5/2005-IR(DU)]

P. K. VENUGOPAL, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

#### NO. CGIT/LC/R/123/05

SHRI R.B.PATLE, Presiding Officer

Smt. Usha Sudhakar Rao,  
Ward No.3, Teja Mohalla,  
Vill. Kodariya,  
Mhow.

... Workman

#### Versus

The Commandant,  
Military College of Technical Engineering,  
Mhow.  
... Management

#### AWARD

Passed on this 12th day of May 2014

1. As per letter dated 28-10-05 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-14012/5/2005-IR(DU). The dispute under reference relates to:

“Whether the action of the management of Commandant, Military College of Technical

Engineering in terminating the services of Smt. Usha Sudhakar Rao w.e.f. 3-8-2001 is justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Union Representative submitted statement of claim at Page 2. It is submitted by Union Secretary that services of workman be regularized as Class-IV employees, pay and allowance of said post be paid to them. Compensation of Rs. 20,000/- is also claimed. Statement of claim is absolutely silent how the termination of services of Ist party workman Smt. Usha Sudhakar Rao suffers from illegality.

3. IIInd party filed Written Statement at Page 5/1 to 5/2. IIInd party submits that workman Smt. Usha Sudhakar Rao was employed as temporary Aaya from 15-8-96. There were no regular vacancy in the school. The employment of teacher and administrative staff is of temporary nature based on strength of students. Since the strength of student officers, JCOs, Jawans and their families including children keep varying mainly due to their exigency of duties. The staff employed in the Regimental Institutions are required to be reduced/increased according to the requirement of staff from time to time. It is submitted that during 2001-02, strength of students fell down from 357 to 278. It resulted in reducing the staff during the year 2001-02 including Smt. Usha Sudhakar Rao. There is no permanent post. The administrative staff employed temporarily as per the strength of student varies. That Smt. Usha had withdrawn her court case unconditionally. She was offered vacancy of aayah in January 2003. Despite of letters dated 31-1-03, 5-2-03, she failed to respond. It is further submitted that IIInd party is not covered as industry. Ist party is not covered as workman.

4. Rejoinder is filed reiterating his contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below :

(i) Whether the action of the management of Commandant, Military College of Technical Engineering in terminating the services of Smt. Usha Sudhakar Rao w.e.f. 3-8-2001 is justified?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Relief is rejected.

## REASONS

6. As stated above, statement of claim submitted by Union Representative is silent how termination of services of workman suffered from illegality. Workman filed affidavit of her evidence stating that she completed 240 days continuous service. her services were orally terminated. Workman failed to appear for her cross-examination. The evidence of workman was closed observing that her evidence will not be looked into. As per ordersheet dated 14-10-2010, IIInd party failed to participate in the reference proceeding. For want of evidence, claim of workman cannot be accepted. For above reasons, I record my finding in Point No.1 in Affirmative.

7. In the result, award is passed as under:-

- (1) The action of the management of Commandant, Military College of Technical Engineering in terminating the services of Smt. Usha Sudhakar Rao w.e.f. 3-8-2001 is proper.
- (2) Relief prayed by workman is rejected.

8. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

R. B. PATLE, Presiding Officer

नई दिल्ली, 30 मई, 2014

**का.आ. 1715.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चीफ जनरल मैनेजर, टेलीकॉम, भोपाल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/123/00) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/5/2014 को प्राप्त हुआ था।

[सं. एल-40012/120/2000-आईआर (डीयू) ]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 30th May, 2014

**S.O. 1715.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. CGIT/LC/R/123/00) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Chief General Manager, Telecom, Bhopal and their workman, which was received by the Central Government on 29/05/2014.

[No. L-40012/120/2000-IR(DU)]

P. K. VENUGOPAL, Section Officer

## **ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR**

NO. CGIT/LC/R/123/2000

**SHRI R. B. PATLE, Presiding Officer**

Versus

Chief General Manager,  
Telecom, Telecom Bhawan,  
Hoshangabad Road,  
Bhopal . . . Management

## AWARD

Passed on this 2nd day of May 2014

1. As per letter dated 30-6-00 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-40012/120/2000-IR(DU). The dispute under reference relates to:

“Whether the action of the management of Chief General Manager, Telecom in terminating the services of Shri Abdul Razaque S/o Naseer Khan w.e.f. April 1995 is justified? If not, to what relief the workman is entitled?

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 2/1 to 2/4. Case of Ist party workman is that he was initially appointed in September 89 in Telecom Deptt. as casual labour. He was working in different Telecom Exchange under Sub Divisional Officer, Biaora, Distt. Rajgarh. He was continuously working from 1989 till April 1995. He completed more than 240 days continuous service. His services are terminated without notice, no retrenchment compensation was paid. Termination of his service was without giving opportunity of hearing. The termination of service is by way of victimization. Any kind of enquiry was not conducted against him. On such ground, workman is praying for his reinstatement with consequential benefits.

3. IIInd party filed Written Statement at Page 4/1 to 4/2. IIInd party submits that workman had not completed 240 days continuous service. He was engaged as casual employee. Working days of workman were 127 days in 1989, 48 days in 1990, 230 days in 1991, 30 days in 1992.

Workman was not discontinued, he himself remained absent. There was no question of termination of his service. All other adverse contentions of workman are denied. It is submitted that workman is not entitled for reinstatement.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below :

(i)	Whether the action of the management of Chief General Manager, Telecom in terminating the services of Shri Abdul Razaque S/o Naseer Khan w.e.f. April 1995 is justified?	In Affirmative
(ii)	If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

## **REASONS**

5. Workman is challenging termination of his service for violation of Section 25-F of I.D. Act. The workman contents that he had completed 240 days continuous service prior to his services were terminated. 2nd party denied all above material contentions of workman. Affidavit of evidence is filed by workman covering most of his contentions in Statement of claim. However he failed to appear for his cross-examination. His evidence was closed on 31-12-09 with a note that his evidence will not be looked as he did not turn up for cross-examination. Thus evidence of workman cannot be considered in support of his claim. Management filed affidavit of evidence Ramzan Khan. Witness of management has stated that workman had completed 240 days continuous service during any of the year. The working days of workman are shown in para-4 of the affidavit. The witness in his cross-examination denies that every year workman had completed more than 350 days. As evidence of workman cannot be considered for his failure to appear for cross-examination, the claim of 1st party workman cannot be accepted. Therefore I record my finding in Point No.1 in Affirmative.

6. In the result, award is passed as under:-

- (1) The action of the management of Chief General Manager, Telecom in terminating the services of Shri Abdul Razaque S/o Naseer Khan w.e.f. April 1995 is legal and proper.
  - (2) Workman is not entitled to relief as prayed by him.

R. B. PATLE, Presiding Officer

नई दिल्ली, 30 मई, 2014

**का.आ. 1716.**—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चीफ जनरल मैनेजर, डिपार्टमेंट ऑफ टेलीकॉम, भोपाल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/80/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29/5/2014 को प्राप्त हुआ था।

[सं. एल-40011/16/97-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 30th May, 2014

**S.O. 1716.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. CGIT/LC/R/80/98) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Chief General Manager, Department of Telecom, Bhopal and their workman, which was received by the Central Government on 29/05/2014.

[No. L-40011/16/97-IR(DU)]

P. K. VENUGOPAL, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

#### NO. CGIT/LC/R/80/98

SHRI R.B. PATLE, Presiding Officer

Shri Ganesh Ram Sharma, President,  
Bhartiya Mazdoor Sangh,  
Through Ganesh Medical Stores,  
Morena (MP) ... Workman

#### Versus

Chief General Manager,  
Dept. of Telecommunication,  
Hoshangabad Road,  
M.P. Circle,  
Bhopal

District Manager,  
Door Sanchar,  
Dept. of Telecom,  
Morena (MP) ... Management

#### AWARD

( Passed on this 1st day of May 2014)

As per letter dated 1-16/4/98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-40011/16/97-IR(DU). The dispute under reference relates to :

“Whether the action of the management of Door Sanchar Morena in treating S/Shri Vasudev S/o Ramhet, Lal Singh S/o Duk Singh, Captan Singh S/o Ram Swaroop and S/Shri Sughar Singh S/o Ram Swaroop, Phalodia S/o Ram Swaroop, Pancham Singh S/o Duk Singh, Rakeya S/o Phool Singh and Gajendra Singh S/o Prabhoo Dayal working as Casual Labour continuously w.e.f. 4-1-88 and 9-1-90 respectively as contract labours, and terminating their services is legal and justified ? If not, to what relief the workman are entitled for ?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 5 to 9. Case of Ist party workmen is that they were continuously employed as casual labour by IIInd party from 4-1-88 and 9-1-90. They were working under direct control and supervision of the management. They worked under Sub-divisional Officer, Morena. There were two junior Telecom Officers working under SDO called indoor and out door Telecom Officers. All workman were paid salary as per muster roll. Cash book was maintained in office of SDO Telecom Morena. Payment of salary to applicants is shown in cash book. The salary was paid to workmen in AC-17 vouchers. All workers were signing on it. The entries were taken from cash book of SDO Officer. That services are terminated by IIInd party without issuing notice, retrenchment compensation not paid to them. The termination of services of workman is in violation of Section 25-F of I.D. Act. It is illegal. Ist party workman also submits that termination of their services is in violation of Section 25-G of I.D. Act. They prays for reinstatement with back wages.

3. IIInd party filed Written statement at Page 19 to 23. IIInd party submits that reference is bad in law as workmen were not engaged by management of IIInd party. There was no question of termination of their services. There was no employer employee relationship between parties. Workmen contends that they were rendering service from 1988 till termination of their service in 1996. That the management has not engaged any casual labour as the employment of casual labour was prohibited. Ist party workmen were not employees of the department. That management had engaged one M/s. Surendra Security Guard Services. Shri M.S. Rathore was proprietor of said agency. Some of the workmen were employed by contractor

and not by the management. For absence of particulars, IIInd party was unable to give details about the services rendered by workmen through contractor. IIInd party denied violation of Section 25-F of I.D. Act, it is submitted that the recruitment of casual labour is covered by rules. The rules having stated, no recruitment would be done without compliance of recruitment rules. 1st party workmen cannot be regularised as the post were not sanctioned. Workmen were not sponsored through Employment Exchange. On such grounds, IIInd party prays for rejection of claim.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below :

(i) Whether the action of the management of Door Sanchar Morena in treating S/Shri Vasudev S/o Ramhet, Lal Singh S/o Duk Singh, Captan Singh S/o Ram Swaroop and S/Shri Sughar Singh S/o Ram Swaroop, Phalodia S/o Ram Swaroop, Pancham Singh S/o Duk Singh, Rakeya S/o Phool Singh and Gajendra Singh S/o Parbhoo Dayal working as Casual Labour continuously w.e.f. 4-1-88 and 9-1-90 respectively as contract labours, and terminating their services is legal and justified ?	In Negative
(ii) If not, what relief the workman is entitled to?"	As per final order.

### REASONS

5. 1st party workmen are challenging termination of their services by IIInd party for violation of Section 25-F of I.D. Act. Management of IIInd party denied all material contentions of workman. Identical affidavit of evidence of all workmen are filed. Workmen in their affidavit have stated that workmen Shri Phalodia S/o Ram Swaroop, Pancham Singh S/o Duk Singh, Rakeya S/o Phool Singh and Gajendra Singh S/o Parbhoo Dayal has stated that they were working with IIInd party from 1990 to 1996. Workmen Shri Vasudev S/o Ramhet, Lal Singh, S/o Duk Singh, Captan Singh S/o Ram Swaroop and S/Shri Sughar Singh S/o Ram Swaroop have stated that they were working with IIInd party from 1988 to 1996. That their salary were paid in AC-17 voucher. Its entries were taken in cash book of SDO, Morena. They have worked under contractor. They were not paid retrenchment compensation, they were

continuously working during the period stated in their respective affidavit. They were working under different names. All the workmen were cross-examined. Fodalla in his cross-examination says he was not permanently appointed, he was paid wages on daily wage basis. He was getting four holidays in a month. No order of termination was given. Management was insisting payment of wages in different names. As he did not agree, he was discontinued. Pancham Singh in his cross-examination says letter of appointment was not given to him. That he was not working with contractors. He was doing work of digging tunnels. The said work was given to contractor therefore his services were discontinued. He never worked under contractor. Vasudev in his cross-examination says he was not given permanent appointment, he was working on muster roll, he was paid wages on monthly wages. He was orally terminated. Captan Singh, Lal Singh, Saghar Singh, Gajendra Singh, Rakeya in their cross-examination says has deposited similarly. Though all the workmen are cross-examined, they have denied working through contractor. IIInd party did not examine any witness despite of repeated chances granted. IIInd party failed to prove that all those workmen were engaged through contractor. IIInd party did not produce any documents, cash book, vouchers. 1st party workmen has produced zerox copies of vouchers. Application was filed by workmen that IIInd party be directed to produce documents. Despite of it, no documents are produced. Therefore I do not find reason to disbelieve evidence of all the workmen that they were continuously working with IIInd party from 1988, 1990 till 1996. Their services were terminated. That they were continuously working. Their services were terminated without notice though retrenchment compensation is paid to them. Therefore the evidence is sufficient to hold that the termination of services of all those workmen is in violation of Section 25-F of I.D. Act. For above reasons, I record my finding in Point No.1 in Negative.

6. In view of my finding in Point No.1 that termination of services of workmen are illegal for violation of Section 25-F of I.D. Act, question arises as to whether the workmen are entitled for reinstatement with back wages. The evidence in cross-examination of 1st party workmen is clear that they were not appointed against permanent post. They were not appointed following recruitment rules, their names were not sponsored through Employment Exchange. All the workmen were paid on daily wage basis. Legal position is rather settled that casual employee engaged on daily wage basis are not entitled for regularization, reinstatement with reasonable compensation would be appropriate relief. In my considered view, considering workmen were engaged as casual employees on daily wage basis, compensation Rs. 40,000 to each workmen would meet the ends of justice. Accordingly I record my finding in Point No. 2.

7. In the result, award is passed as under :

- (1) The action of the management of Door Sanchar Morena in treating S/Shri Vasudev S/o Ramhet, Lal Singh S/o Duk Singh, Captan Singh S/o Ram Swaroop and S/Shri Sughar Singh S/o Ram Swaroop, Phalodia S/o Ram Swaroop, Pancham Singh S/o Duk Singh, Rakeya S/o Phool Singh and Gajendra Singh S/o Parbhoo Dayal working as Casual Labour continuously w.e.f. 4-1-88 and 9-1-90 respectively as contract labours, and terminating their services is illegal.
- (2) Management is directed to pay compensation Rs. 40,000 to each workmen namely S/Shri Vasudev S/o Ramhet, Lal Singh S/o Duk Singh, Captan Singh S/o Ram Swaroop and S/Shri Sughar Singh S/o Ram Swaroop, Phalodia S/o Ram Swaroop, Pancham Singh S/o Duk Singh, Rakeya S/o Phool Singh and Gajendra Singh S/o Parbhoo Dayal.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 30 मई, 2014

**का.आ. 1717.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जनरल मैनेजर, सिक्योरिटी पेपर मिल, होशंगाबाद के प्रबंधत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/54/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/5/2014 को प्राप्त हुआ था।

[सं. एल-16011/3/2005-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 30th May, 2014

**S.O. 1717.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. CGIL/LC/R/54/2005) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the General Manager, Security Paper Mill, Hoshangabad and their workmen, which was received by the Central Government on 29/05/2014.

[No. L-16011/3/2005-IR(DU)]

P. K. VENUGOPAL, Section Officer

## ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

#### NO. CGIT/LC/R/54/2005

SHRI R. B. PATLE, Presiding Officer.

General Secretary,  
SPM Employees Union, Type-II/63,  
Phase-II, SPM,  
Hoshangabad. . . . Workman/Union

#### Versus

General Manager,  
Security Paper Mill,  
Hoshangabad. . . . Management

#### AWARD

Passed on this 30th day of April 2014

1. As per letter dated 13-6-05 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No.L-16011/3/2005-IR(DU). The dispute under reference relates to:

“Whether the action of the management of General Manager, Security Paper Mill, Hoshangabad in reversion of Shri Bhagchand Machine Operator to the pay scale of Rs. 3050-4590 for a period of 4 years is justified? If not, to what relief the workman is entitled for ?”

2. After receiving reference, notices were issued to the parties. Despite of repeated notices, workman failed to appear, statement of claim is not filed. Workman is proceeded ex parte on 27-1-2012. IIInd party management not filed Written Statement. It appears that without filing Written Statement, affidavit of evidence is filed by IIInd party contending that workman was availing LTC but not going for journey. He had taken advance of Rs. 3000 for going to Kanyakumari in February 1997. He had not travelled said destination neither refunded amount of advance. Chargesheet was issued to workman on 30-5-97 after conducting enquiry as per rules. The charges were found proved. Workman was shown leniency and the punishment of reduction to a lower pay scale was imposed. Workman did not participate in the proceeding.

3. The points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons below :

(i)	Whether the action of the management of General Manager, Security Paper Mill, Hoshangabad in reversion of Shri Bhagchand Machine Operator to the pay scale of Rs. 3050-4590 for a period of 4 years is justified?	In Affirmative
(ii)	If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

### REASONS

4. The reference relates to the legality of reversion of workman to pay scale Rs. 3050-4590. Workman failed to participate in the reference proceeding. He has not filed Statement of Claim. IIInd party management instead of filing Written Statement, filed affidavit of witness Shri Kedar Nath Mahapatra along with documents. As workman has failed to submit statement of claim or adduced evidence in support of claim, I record my finding in Point No.1 in Affirmative.

5. In the result, award is passed as under:

- (1) The action of the management of General Manager, Security Paper Mill, Hoshangabad in reversion of Shri Bhagchand Machine Operator to the pay scale of Rs. 3050-4590 for a period of 4 years is legal and proper.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 30 मई, 2014

**का.आ. 1718.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार गैरिसन इंजीनियर, एमईएस, भोपाल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/19/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/5/2014 को प्राप्त हुआ था।**

[सं. एल-14011/8/2004-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 30th May, 2014

**S.O. 1718.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. CGIT/LC/R/19/2005) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the

Annexure in the Industrial Dispute between the employers in relation to the management of the Garrison Engineer, MES, Bhopal and their workman, which was received by the Central Government on 29/05/2014.

[No. L-14011/8/2004-IR(DU)]

P. K. VENUGOPAL, Section Officer

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

#### NO. CGIT/LC/R/19/2005

SHRI R.B.PATLE, Presiding Officer

Shri Vishwadev Sharma,  
Secretary,  
MES Employees Union,  
Jabalpur Area, MES Colony,  
Near Om Vidya Mandir School,  
Bhopal (MP)

... Workman

### Versus

Garrison Engineer,  
MES, Bairagarh,  
Bhopal (MP)

... Management

### AWARD

(Passed on this 16th day of May, 2014)

1. As per letter dated 28-1-2005 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-14011/8/2004-IR(DU). The dispute under reference relates to:

“Whether the action of the management of Garrison Engineer, MES Bhopal MP in not granting the promotion under ACP Scheme and other benefits to Shri V.D.Sharma, Electrician HS Grade II is legal and just? If not, to what relief the concerned workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman failed to file statement of claim. he is proceeded ex parte on 16-11-07.

3. IIInd party filed ex parte Written Statement. Case of IIInd party is that at intervention of Union, workman was paid washing allowance Rs. 8 per month for the period January 1998 to April 2000. The arrears of washing allowance were paid to the employees for the same period. That in conciliation proceeding before ALC, discussion had taken place on 4-10-04. Parties failed to have amicable settlement. That the dispute relating to payment of washing

allowance doesnot exist. The pleadings in written statement of IIInd party are quite relevant with the terms of reference. The reference relates to denial of promotion as per ACP scheme to Ist party workman.

4. Considering pleadings, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below :

- |  |  |
|--|--|
| (i) Whether the action of the management of Garrison Engineer, MES Bhopal MP in not granting the promotion under ACP Scheme and other benefits to Shri V.D.Sharma, Electrician HS Grade II is proper ? | In Affirmative                             |
| (ii) If not, what relief the workman is entitled to?"  | Workman is not entitled to relief claimed. |

#### REASONS

5. As per terms of reference, denial of promotion as per ACP scheme to workman is required to be decided. Workman failed to participate in reference proceeding. He is proceeded ex parte. Statement of claim is not filed. Written Statement filed by IIInd party doesnot cover the point under reference relating to the denial of promotion as per ACP Scheme to the workman. IIInd party has failed to adduce evidence. It failed to participate in the reference proceeding. In absence of pleadings and evidence on part of workman, claim under reference cannot be allowed in favour of workman. Therefore I record my finding in Point No.1 in Affirmative.

6. In the result, award is passed as under:-

- (1) The action of the management of Garrison Engineer, MES Bhopal MP in not granting the promotion under ACP Scheme and other benefits to Shri V.D.Sharma, Electrician HS Grade II is proper.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 30 मई, 2014

**का.आ. 1719.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चौक जनरल मैनेजर, टेलीकम्प्यूनिकेशन, भोपाल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/102/98) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/5/2014 को प्राप्त हुआ था।

[सं. एल-40012/103/97-आईआर (डीयू) ]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 30th May, 2014

**S.O. 1719.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D No. CGIT/LC/R/102/98) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Chief General Manager, Telecommunication, Bhopal and their workman, which was received by the Central Government on 29/05/2014.

[No. L-40012/103/97-IR(DU)]

P. K. VENUGOPAL, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

#### NO. CGIT/LC/R/102/98

SHRI R. B. PATLE, Presiding Officer

Shri Mohd. Haroon,  
S/o Shri Mohd. Jahoor,  
Pardeshi pura,  
Imlipura,  
Khandwa (MP)

... Workman

#### Versus

Chief General Manager,  
Telecommunication,  
MP Circle, Hoshangabad Road,  
Bhopal (MP) ... Management

#### AWARD

(Passed on this 21st day of April, 2014)

1. As per letter dated 12-5-98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-40012/103/97-IR(DU). The dispute under reference relates to:

“ Whether the action of the management of Chief General Manager, Telecommunication in terminating Shri Mohd. Haroon S/o Mohd. Jahoor w.e.f. 15-12-90 is justified? If not, to what relief the workman is entitled for?”

2. After receiving reference, notices were issued to the parties. workman filed statement of claim at Page 11/1 to 11/3. Case of workman is that he was working since 1983 in muster roll under direct control and supervision of SDOT, Sehore. In 1983, he worked for 171 days, again it appears typing mistake he worked for 326 days in 1986-341 days, in 1989-297 days, in 1988-304 days in 1989-300 days. That he was continuously working to the satisfaction of his superiors. He was required to work under control of Chief General Manager, Telecom, Bhopal, SDOT, Sehore. His services were suddenly terminated from September 1988. No notice was given to him. Termination of his service is illegal. That he had completed 240 days in calendar year. His services should have been regularized instead his services are terminated without notice. On such ground, workman prays that is termination be held illegal and consequential benefits be given.

3. IIInd party filed Written Statement at Page 13/1 to 13/4. IIInd party opposed to relief prayed by workman. It is submitted that workman was absent from March 1984 for more than one year. He is not covered under scheme for grant of regular status. There was break in service for more than one year. Workman did not render his services in muster roll on his own accord between March 84 to April 1985. As per direction of Department of Telecommunication dated 30-3-85, engagement of casual labour was prohibited. That telecom department is not an industry. Workman is not entitled to retrenchment compensation. Working days of workman are shown 111 days in 1982, 60 days in 1984. It is reiterated that workman had not completed 240 days continuous service. He is not entitled to protection under Section 25-F of I.D.Act. relief prayed by workman be rejected.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below :

(i) Whether the action of the management of Chief General Manager, Telecommunication in terminating Shri Mohd. Haroon S/o Mohd. Jahoor w.e.f. 15-12-90 is justified?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to relief prayed by him.

## REASONS

5. Though workman is challenging termination of his services for violation of Section 25-F of I.D.Act, workman has not adduced evidence in support of his claim. Evidence of workman is closed on 6-9-2011. Management filed affidavit of evidence of witness Tapan Kumar Chatterjee. The witness of the management has stated most of the facts pleaded in Written Statement that workman had not completed 240 days continuous service. He was absent during the period from March 84 to April 1985. The evidence of management's witness remained unchallenged. I find no reason to disbelieve his evidence. The evidence of management's witness Rajesh Kumar also remained unchallenged. In absence of evidence of workman, action of the management terminating services of workman cannot be said illegal. Therefore I record my finding on Point No. 1 in Affirmative.

6. In the result, award is passed as under :

- (1) The action of the management of Chief General Manager, Telecommunication in terminating Shri Mohd. Haroon S/o Mohd. Jahoor w.e.f. 15-12-90 is legal and proper.
- (2) Workman is not entitled to relief prayed by him.

R. B. PATLE, Presiding Officer

नई दिल्ली, 30 मई, 2014

**का.आ. 1720.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कैंटेनमेंट एंजीक्युटिव अफसर, पचमारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं त्रिम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/204/92) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/5/2014 को प्राप्त हुआ था।

[ सं. एल-13012/13/91-आईआर (डीयू) ]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 30th May, 2014

**S.O. 1720.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D No. CGIT/LC/R/204/92) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Cantonment Executive Officer, Pachmarhi and their workman, which was received by the Central Government on 29/05/2014.

[No. L-13012/13/91-IR(DU)]

P. K. VENUGOPAL, Section Officer

## **ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR**

NO. CGIT/LC/R/204/92

**SHRI R. B. PATLE, Presiding Officer.**

Shri Basant Kumar,  
S/o Shri Babulal Kumar,  
Jata shanker Marg,  
Hoshangabad (MP) . . . Workman

Versus

Cantonment Executive Officer,  
Pachmarhi,  
Distt. Hoshangabad (MP) . . . Management

## AWARD

(Passed on this 17th day of April 2014)

1. As per letter dated 30-9-92 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-13012/13/91-IR(DU). The dispute under reference relates to:

“Whether the action of the management of Cantonment Executive Officer, Pachmarhi in terminating the services of Shri Basant Kumar is justified? If not, what relief the workman concerned is entitled to?”

2. After receiving reference, notices were issued to the parties. workman submitted statement of claim at Page 2/1 to 2/5. Case of workman is that he was employed as passenger Tax Moharrir on daily wages by the IIInd party. In 981, he was continuously working till 18-10-85. He also claims to be working sweeper till 14-5-86. His services were terminated without notice. That he was continuously working more than 5 years. His services were not regularized with malafide intention to deny benefits of permanent employee. On 29-4-86, interview for the post of Moharrir was held but he was not informed about it. He had submitted repeated applications to the management without any favourable response. That termination of his services is illegal. He prays for reinstatement with back wages. Workman has also referred to certain discussions during conciliation proceedings. IIInd party had requested to postponed conciliation hearing on the ground that claim of workman was under active consideration of the department. However after failure of conciliation, reference has been made. On such grounds, workman is praying for reinstatement with consequential benefits.

3. IIInd party filed Written Statement at Page 4/1 to 4/3. IIInd party submits that it is not covered as industry. The reference is not tenable. It is submitted that workman was engaged on daily wages for collecting passenger tax on behalf of Cantonment Board, Pachmarhi. That Directorate Defence Estates, Headquarter sanctioned post of Moharrirs for recovery of passenger tax for period of one year as per letter dated 11-2-86. As per provisions of the Cantonment Fund Service Rule 1937, the engagement of Moharrirs was required to be done through the Employment Exchange. IIInd party had approached Employment Exchange Hoshangabad to sponsor candidates. Workman was also informed to approach Employment Exchange in order to have his name sponsored. The name of workman was not included in the list form Employment Exchange. It was the reason workman could not be considered for employment.

4. The work on which workman was engaged was casual. Workman was required to work for 8 hours and not completed 240 days continuous service. Termination of workman doesnot amount to retrenchment. Workman is not entitled to employment as conditions for employment are not fulfilled by him. Workman did not fulfill conditions of age limit, minimum qualifications required. Workman was engaged on daily wages. He was not terminated, his services were not required, work was not given to him. His services are not terminated in violation of natural justice. on such grounds, IIInd party prays for rejection of claim of workman.

5. Workman filed rejoinder at Page 5/1 to 5/3. It is submitted that the reference is legally made. It is denied that name of workman was not included in list sponsored by Employment Exchange. It is denied that the workman was engaged on casual nature of work. All other contentions in Written Statement of IIInd party are denied. It is denied that workman was not fulfilling conditions of employment.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below :

- |   |  |
|---|--|
| <p>(i) Whether the action of the management of Cantonment Executive Officer, Pachmarhi in terminating the services of Shri Basant Kumar is justified?</p> | In Affirmative                                   |
| <p>(ii) If not, what relief the workman is entitled to?”</p>  | Workman is not entitled to relief prayed by him. |

## REASONS

7. Workman is challenging termination of his service that he was terminated without notice, he was working with IIInd party from 1981 to 18-10-85 and thereafter as sweeper till 14-5-86. He was not informed about interview held for the post of Moharrirs on 29-4-86. That discontinuing him from service is legal and amounts to unfair labour practice. After filing affidavit case was fixed for cross-examination of workman. Ordersheet indicates that before workman could be cross-examined, he was reported dead on 7-12-2004. Thereafter case was repeatedly adjourned. LRs of Ist party are not brought on record. Management has not participated in reference proceeding. Details of LRs of deceased workman are not produced by management. Neither LRs have taken any interest to participate in the reference proceeding nor any document is produced that workman is continuously working for 240 days preceding his termination/discontinuation. No document is produced about payment of wages or leave. No co-employee is examined. Uncoroborated affidavit of evidence of workman cannot be sufficient proof to support contentions of workman. For above reasons I record my finding in Point No.1 in Affirmative.

8. In the result, award is passed as under:-

- (1) Action of the management of Cantonment Executive Officer, Pachmarhi in terminating the services of Shri Basant Kumar is proper.
- (2) Workman is not entitled to any relief claimed by him.

R. B. PATLE, Presiding Officer

नई दिल्ली, 30 मई, 2014

**का.आ. 1721.—**—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिविजनल इंजीनियर टेलिकॉम प्रोजेक्ट, रायपुर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/2/99) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/5/2014 को प्राप्त हुआ था।

[सं. एल-40012/39/98-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 30th May, 2014

**S.O. 1721.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. CGIT/LC/R/2/99) of the Central Government Industrial Tribunal/

Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Divisional Engineer, Telecom Project, Raipur and their workmen, which was received by the Central Government on 29/05/2014.

[No. L-40012/39/98-IR(DU)]

P. K. VENUGOPAL, Section Officer

## ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

#### NO. CGIT/LC/R/2/99

SHRI R. B. PATLE, Presiding Officer

Shri Chandramani,  
S/o Shri Lalmani,  
Vill Ghatkachhar, PO Signora,  
Tehsil Saraipali,  
Raipur

... Workman

#### Versus

Divisional Engineer,  
Telecom Project,  
7, Sahakari Marg-II,  
Choubey Colony,  
Raipur

... Management

#### AWARD

(Passed on this 28th day of April, 2014)

1. As per letter dated 30-10/18-11/88 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-40012/39/98/IR(DU). The dispute under reference relates to :

“ Whether the action of the management of Divisional Engineer, Telecom Project, Raipur (MP) in terminating the services of Shri Chandramani S/o Shri Lalmani, Ex-Mazdoor, is legal and justified? If not, to what relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at page 7/1 to 7/3. The case of workman is that he was appointed as permanent post of mazdoor in 1986. His services were discontinued since 16-2-86. That he completed 240 days continuous service in 1986-87. The dispute was raised before ALC, Raipur against his termination. During conciliation proceeding dated 27-12-89, workman was immediately reinstated without back wages. Thereafter

workman was discontinued from 1-11-91 by IIInd party on the ground that work was not available. That he completed 240 days continuous service preceding 12 months of his termination. His services were terminated without notice, not paying retrenchment compensation, termination of his service is in violation of Section 25-F of I.D. Act. that in Original Application No. 196/90, CAT Jabalpur allowed regularization to the employees junior to him on the same principle. Ist party workman is praying for his reinstatement with consequential benefits.

3. Despite of notices issued to management, Written Statement is not filed. However it appears that the workman was cross-examined by Advocate Kapoor for IIInd party.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below :

(i) Whether the action of the management of Divisional Engineer, Telecom Project, Raipur (MP) in terminating the services of Shri Chandramani S/o Shri Lalmani, Ex-Mazdoor, is legal and justified?	In Negative
(ii) If not, what relief the workman is entitled to?	As per final order.

## REASONS

5. Workman is challenging termination of his service for violation of Section 25-F of I.D. Act. Workman filed affidavit of his evidence. He has stated that he was appointed by management of IIInd party against permanent post of mazdoor in 1986. He continuously worked from 16-2-86 to 1-11-91. He had completed 240 days continuous service. His services are terminated without notice in termination of Section 25-F of I.D. Act, he was not paid retrenchment compensation. He also referred to the order passed in Original Application No. 196/90 before CAT, Jabalpur whereby the employees were reinstated. On Parity, workman prays for his reinstatement with consequential benefits. In his cross-examination, workman says he was not given appointment order. The post was not advertised. He was engaged for special work of laying cables. He was paid wages for his working days. He was working in co-axial cable project. He was not working in DE Project. He claims ignorance whether in his affidavit, he has stated that he is working in co-axial project. From his evidence in cross-examination, it is clear that workman had completed 240 days continuous service is not challenged. It is also

not challenged that his services were terminated without notice, retrenchment compensation was not paid, therefore termination of service of workman is in violation of Section 25-F of I.D. Act. For above reasons, I record my finding in Point No.1 in Negative.

6. **Point No. 2 :** In view of my finding in Point No.1 that services of workman are terminated in violation of Section 25-F of I.D. Act, question arises whether workman is entitled for reinstatement with back wages. Though workman is referring judgment passed by CAT, Jabalpur in Original application No. 196/90, the said judgment is not produced on record. The cross-examination of workman shows that he was not appointed after following selection process. He was engaged on daily wages. Wages for working days were paid to him. Considering the period, workman was engaged by IIInd party on daily wages, reinstatement of workman cannot be granted. In my considered view, reasonable compensation would be appropriate. Considering the period of working, compensation Rs. 75,000 would be proper. Accordingly, I record my finding in Point No.2.

7. In the result, award is passed as under :

- (1) The action of the management of Divisional Engineer, Telecom Project, Raipur (MP) in terminating the services of Shri Chandramani S/o Shri Lalmani is not proper and legal.
- (2) IIInd party is directed to pay compensation Rs. 75,000 to Ist party workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 30 मई, 2014

**का.आ. 1722.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जनरल मैनेजर, गन कैरिज फैक्ट्री, जबलपुर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/38/90) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/5/2014 को प्राप्त हुआ था।

[सं. एल-14012/20/89-डी-2 (बी)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 30th May, 2014

**S.O. 1722.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (I.D No. CGIL/LC/R/38/90) of the Central Government Industrial Tribunal/ Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the General Manager, Gun Carriage Factory, Jabalpur and their workmen, which was received by the Central Government on 29/05/2014.

[No. L-14012/20/89-D-2 (B)]

P. K. VENUGOPAL, Section Officer

## **ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR**

NO. CGIT/LC/R/38/90

**SHRI R. B. PATLE, Presiding Officer**

Shri Sukhlal Patel,  
Gram & Post Bela,  
Tehsil Sihore,  
Distt. Jabalpur (MP) ... Workman

VERSUS

General Manager,  
Gun Carriage Factory,  
Jabalpur (MP) . . . Management

## AWARD

(Passed on this 11th day of April, 2014)

1. As per letter dated 31-1-90 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No.L-14012/20/89-D-2(B). The dispute under reference relates to:

“ Whether the action of the management of Gun Carriage Factory, Jabalpur (MP) in terminating the services of Shri Sukhlal Patel, Ex-Checker w.e.f. 4-4-84 is legal and justified? If not to what relief the concerned workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 5 to 15. Case of workman is that he was working as checker at GCF, Jabalpur, chargesheet was issued to him on 25-1-87 for allegations of cheating and misappropriation of Government money. Enquiry Officer Mr. K.Sundermurthy was appointed. Workman has alleged that enquiry was not conducted properly. He was not given opportunity for his defence. The documents were not

supplied to him. Enquiry conducted against workman is found proper and legal therefore the detailed pleadings on the point are not narrated.

3. Ist party workman submits that chargesheet was issued to him on so called admission. The Enquiry Officer should not have considered the admission. The findings of the Enquiry Officer are not based on evidence. Enquiry Officer permitted production of large number of registers cash books, those documents were not shown to him. Enquiry Officer ignored evidence of defence witnesses while recording his findings. Enquiry Officer without justification reopened enquiry on 8-3-84. Management failed to give proper explanation as to what was done with the amount deposited by workman. Amount deposited by workman has been accepted and amount already been recovered no action can be taken against him. The Appellate Authority acted mechanically and rejected his appeal before proper consideration. On such ground, workman prays for his reinstatement with consequential benefits.

4. IIInd party submitted Written Statement. IIInd party submits that workman was employed as checker in cash office of GCF. He was entrusted with duty of collecting cash against coupons for sale of Timber Firewood and depositing the same on daily basis during the year 1973 to 79. But the amount was not properly deposited. Workman failed to deposit all amount collected from sale of Firewood. The chargesheet was issued to workman. After conducting proper enquiry, workman was suspended, mode of enquiry was constituted. Mr. P.U. Bhavikkatti, the Manager, Ordnance Factory, Khamaria was appointed as Enquiry Officer. It was held that prima facie case against workman regarding defalcation of Rs. 39,628.75 and negligence in duties. Enquiry was conducted under CCS Rules. Workman was allowed to engage Shri S.K.Nagpal as Defence Assistant. Subsequently Shri N.P.Tiwari was his Defence Assistant. Workman was allowed to examine documents, cross-examining witnesses. Workman was allowed to examine defence witnesses. It is denied that enquiry was conducted against principles of natural justice. The Appellate Authority rejected appeal after full consideration of evidence and documents. IIInd party submits that it is not industry under Section 2(j) of I.D.Act. therefore reference is not tenable. IIInd party prays for rejection of the claim.

5. Ist party workman filed rejoinder at Page 46 to 47 reiterating his contentions in statement of claim that enquiry conducted against him was not proper and legal. He was not given opportunity for his defence.

6. The ex parte award appears to have been passed on 17-1-96. Ex parte award was set-aside on applications of workman.

7. Preliminary issue was decided on 14-3-13. Enquiry conducted against workman is found fair and legal.

8. Considering pleadings and issues already framed on record, the issues No. 3 to 5 arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below :

(i) Whether the charges of misconduct are proved on the facts of the case?	In Affirmative
(ii) Whether the punishment awarded is proper and legal ?	In Affirmative
(iii) Relief and costs?	Workman is not entitled to relief prayed by him.

### REASONS

9. As discussed above, enquiry conducted against workman is found proper and legal, question remains to be decided whether the misconduct alleged against workman is proved from evidence in Enquiry Proceedings and whether punishment of dismissal imposed on the workman is proper and legal. In view of enquiry is found legal, evidence in Enquiry Proceedings needs consideration for deciding whether the misconduct alleged against workman is proved or not. Chargesheet is issued to workman. Charge No.1 is issued to workman. Charge No.1 relates to that workman Shri S.C.Patel while functioning as checker in cash office and entrusted with above duty to collect cash against sale and depositing same on daily basis during 1973, 1979 committed gross misconduct and failed to maintain the accounts properly-conduct willful neglect of duty. Charge No.2 is that Said S.L.Patel while functioning as checker in cash office and entrusted with above duty failed to deposit all the money collected by him as sale proceeds and committed Gross misconduct- cheating and misappropriation Government money which is unbecoming of a Govt. employee. Enquiry Officer recorded statements of 5 witnesses, all those witnesses were cross-examined by Defence Assistant. Several documents and registers were also produced. Considering oral and documentary evidence, the Enquiry Officer held misconduct against workman is proved.

10. Counsel for workman Shri Golandas argued that chargesheet was issued to the workman with the allegation of cheating, misappropriation of money alleged but amount was not specified in the chargesheet. Despite of enquiry was found proper and legal, learned counsel advanced some arguments that statement of Shri Purohit was not supplied to the workman. That Charge No.1 relates to sale

of Timber Firewood , failed to maintain proper accounts by workman. It is submitted that workman was not assigned duty to maintain accounts but only collecting amount. That MW-3 settlement dated 20-7-82 was produced in enquiry that his cross-examination shows that Rs.70.05 discrepancies' was noticed. That the amount related to dealing of 5 persons other employees are not examined as witness. The Account register showing discrepancy. The chargesheet issued to workman is not proper. Statement of Narendra narrates misappropriation of Rs. 38,000/. Statement of witness M.S.Shankar relates to conclusion of amount deposited with cashier. The duties of workman are not shattered. Statement of witness No. 2 M.P. Rawla shows that cashier is entitled to get allowance. Any document of audit report is not produced. It is submitted that charge against workman is not proved. The punishment of dismissal is illegal. Learned counsel for IIInd party Mr. P.S. Shankaran submitted that there were two charges against workman. Enquiry Officer has recorded reasons while holding the charges against workman are proved. The delinquent admitted duties before Enquiry Officer. Charge is silent about the amount misappropriated. However documents are produced that management lost amount of Rs. 17,000. First I am inclined to deal citation relied by learned counsel for both parties in support of their argument and then consider the evidence. Workman counsel relies on ratio held in :

Case of Kashinath Dikshita versus Union of India reported in AIR 1986-SC-2118. Their Lordship dealing with non-supply of copies of statements of witnesses document relied upon by Disciplinary Authority. Govt. failed to show that no prejudice occasioned to employee. The order of dismissal was held violative of Article 311(2).

Ratio in above case cannot be considered at this stage as enquiry conducted against workman is found proper and legal vide order dated 14-3-2013. Said order is not challenged by workman as such received finality.

Reliance is also placed in Union of India versus Mohd. Ramzan Khan reported in 1990 Judgments Today-456. Their Lordship held that delinquent is entitled to copy of such report and will also be entitled to make a representation against it. Non-furnishing of report would amount to violation of rules of natural justice.

The ratio held in the case cannot be applied at this stage. It is not case of workman that copy of Enquiry Report was not received by him. The findings on preliminary issue was not challenged.

11. Learned counsel for IIInd party Mr. P.Shankaran relies on ratio held in Case of workmen of Balmadies Estates versus Management of Balmadies Estates and others reported in 2008(4) Supreme Court Cases 517. Their

Lordship held on facts, findings of Labour Court are perverse and can be termed to be based on misconception of law. The facts of the case were two workmen were dismissed from service for committing theft, on conclusion of enquiry. Labour Court held that there was no direct evidence to show that the two workmen had committed theft. The findings of Labour Court were found perverse by their Lordship.

12. As stated above, Enquiry Officer has referred to statements of management's witnesses and documents in enquiry while concluding the charges against workman are proved. The evidence cannot be re-appreciated by this Tribunal as sitting as an Appellate Court, the findings of Enquiry Officer can be interfered only if findings of Enquiry Officer are found perverse not supported by any evidence. Keeping above legal position in view, the evidence in Enquiry Proceedings needs to be considered.

13. Management's witness No. 1 Shri M. S. Shankaran in reply to Q.3 says that coupons for sale were issued and were brought by individuals to cash counter. The individuals responsible to collect the cash receipt, coupons and money and then prepare receipt GCF 380. These transactions are entered in Timber Store Cash Receipt Register GCF 389 and total amount handed over to cashier. At the end of the day, same is totaled up and IAFA 175 for entering amount is prepared ad handed over to cashier by individual concerned who collects money. Cashier signs IAFA 175 for having received the money. Thus procedure is narrated by the witness. In reply to Q.4, he says that collection should be deposited to cashier on day to day basis. While going through the examination, it was found that amount was not shown in the timber register and hence this amount was not deposited could be refunded. Reply to Q.7, 10 given by witness shows the discrepancy was of the period of S.N. Patel i.e. the workman. The witness had seen the order in which Shri S.N. Patel had been allotted duties of collection money. The evidence of witness No.1 on above point is not shattered. In reply to Q.1 in his cross-examination witness says there is no set of duties category-wise. In reply to Q.2, he says as per duty , one staff is assigned with the duties of collection of cash in connection with timber firewood. During this period, the said job was entrusted to Shri S.C. Jain checker. The checker is not entitled to Special pay only cashier is entitled to special pay. Witness No. 2 Shri M.N. Rawla in reply to Q.1 says after retirement of Mr. Tiwari in 1976, he has taken charge of cash office and continued till 1990. In reply to Q.3 he says when he became Divisional officer during 1976, he came to know that Mr. Patel was already doing said work. His further evidence is devoted that only cashier was entitled to get cash allowance. In reply to Q.8, the witness says he recollects some mistakes was there and his impression

that Shri S.N. Patel questioned by him indicated that there were some discrepancies and mistakes, you should be prepared to make them good. In reply to Q.10, he says that mistakes and discrepancies mainly was of short deposit. Workman has rejected his suggestions and made certain discrepancies. He also shown his readiness to deposit the amount. That statement of Shri S.L. Patel given on 24-7-89 in question and answer forms was produced document P-5. In reply to Q.17, the witness says the money was collected, receipt were posted in register and at the end of the day amount received was calculated and handed over to cashier by Shri Patel. IAFA 175 was prepared for the amount, same was posted in cash book etc. In reply to Q.18, MW-2 says that Shri Patel had not performed his duties satisfactorily. The evidence of MW-2 on the point is not shattered in his cross-examination. The evidence of management's witnesses is clear that the discrepancies were found that amount collected by workman for sale of timber firewood noted on the receipt was not deposited with the cashier, less amount was deposited with cashier. The evidence of MW-2 is clear that after disclosure by the workman, he has deposited shortage amount, amount of Rs. 50 per month was also deducted from the salary of workman towards deficiencies. Workman had given in writing for making recovery of the same. All those facts corroborates evidence of management's witness. The entries that large number of receipt books and cash registers were examined and the less deposit was submitted by the Presenting Officer about 40 items. The evidence on said point also remained unchallenged. The matter of less deposited was reported to the Head office. It was directed to make enquiry and ascertain the amount of loss. However the chargesheet was issued to workman relating to less deposited by him on sale of timber firewood to the cashier, negligence of duties etc. the evidence of witnesses of the management is mainly related to the duties of workman to collect amount of sale of timber firewood and depositing the said amount to the cashier was not properly carried. The argument advanced by learned counsel for Ist party that chargesheet is silent about the amount misappropriated and therefore harsh punishment cannot be imposed on the workman. The burden of proof in judicial cases cannot be accepted in the matter to disciplinary proceedings. The accuracy of claiming charge and recording evidence cannot be of quality as in the matter of criminal cases. The evidence of management's witness is sufficient that workman was assigned duty to collect amount of sale/timber firewood. The workman had deposited less amount with cashier. The amount was not tallying. The evidence on above point is not shattered in cross-examination of witnesses of the management. Witness No. 3 in reply to Q. 8, 9 says that he used to do the work of preparation of cash receipt GCF-380 on daily basis. He was reluctant to say anything about the entries amount in 1976. In reply to Q.10, he says after tallying

Form GCF-380 and 389, then only he used to make Govt. cash receipt in IAFA171. That amount of Rs.70.05 is not only from his account, the amount belong to the bill of 5 persons, no amount was recovered from each. In reply to Q.3, in his cross-examination, MW-3 says summaries were prepared by him in payment register which he used to maintain that register is kept as a record. Witness No. 4 Shri S.C. Jain in his evidence has stated that the other duties were collection of Govt. receipts and making miscellaneous payments. In Reply to Q. 7, he says after totaling the cash in timber register, he used to prepare split of details of cash carrying notes, change etc. The Presenting Officer produced 9 cash receipt books GCF 380- Exhibit P-7 the books have not been accounted corresponding to the Register GCF-389 referred to Page 38 of the Enquiry Proceedings. That the amount entered in the timber store register of GCF 389 was not tallied. In all those cases, amount in 389 is less than the amount indicated in receipts. At Page 39, the details of amount detected less in 40 item is given by the Presenting Officer.

14. Learned counsel for management Shri P. Shankaran relies on ratio held in :

Case of S.C. Mukherjee versus Chairman state Bank of India and others reported in 2010(4) MPHT 266. His Lordship dealing with second ground of challenged was that findings of the Enquiry Officer were perverse. His Lordship held it is to be noted that scope of judicial review is very limited. The judicial review is of the decision making process and not of the decision itself on merits. Reappreciation of evidence and substitution of a finding by an independent finding is not permissible. Interference is permissible only if the finding is perverse i.e. where there is no evidence at all the record that finding or the finding is such that no prudent person would record that finding.

In present case, the evidence of management's witness cannot be re-appreciated as the findings of Enquiry Officer is supported by some evidence of the management's witnesses. The findings of Enquiry Officer cannot be said perverse. Therefore findings of Enquiry Officer that charges of negligence in duties are proved against workman dosnot call for interference. Therefore I record my finding on Issue No.1 in Affirmative.

15. Though management has pleaded that it is not covered as industry under Section 2(j) of I.D.Act, management has not adduced evidence about the activities carried by it. Workman was working in timber depot , its working cannot be said sovereign function of the state and therefore contention of management that it is not covered as an Industry cannot be accepted.

**16. Point No. 2 :** Punishment of dismissal is imposed against workman for negligence in duties, depositing less amount of sale of Timber Firewood. Quantum of punishment is challenged by workman. On the point, learned counsel for management relies on ratio held in :

"Case of Divisional Controller, NEKRTC versus H.Amaresh reported in 2006(6) supreme Court Cases 187. In above cited case, misappropriation of a small amount of SRTC funds of Rs. 360.95 paise by conductor was held grave act of misconduct which resulted in financial loss. The charge proved in domestic enquiry, therefore their Lordship held when employee is found guilty of pilferage or of misappropriating the corporations fund, there is nothing wrong in the corporation losing confidence or faith in such an employee and awarding punishment of dismissal. In such cases, there is no place for generosity or misplaced sympathy on the part of the judicial forums and interfering therefore with the quantum of punishment."

Considering the ratio held in above cited case, I donot find reason to interfere with the order of dismissal of workman. For above reasons, I record my finding in above point in Affirmative.

17. In the result, award is passed as under :

- (1) The action of the management of Gun Carriage Factory, Jabalpur (MP) in terminating the services of Shri Sukhlal Patel, Ex-Checker w.e.f. 4-4-84 is legal and proper.
- (2) Workman is not entitled to relief prayed by him.

R. B. PATLE, Presiding Officer

नई दिल्ली, 2 जून, 2014

**का.आ. 1723.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स क्वेस्टरिटेल प्राइवेट लिमिटेड के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ संख्या 65/13) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/5/2014 को प्राप्त हुआ था।

[सं. एल-42011/29/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 2nd June, 2014

**S.O. 1723.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (I.D No. 65/13) of the Central Government Industrial Tribunal/Labour Court No. II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the M/s. Quest Retail Pvt. Limited and their workmen, which was received by the Central Government on 29/05/2014.

[No. L-42011/29/2013-IR (DU)]

P. K. VENUGOPAL, Section Officer

#### **ANNEXURE**

#### **CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, DELHI**

#### **PRESENT:**

SHRI HARBANSK KUMAR SAXENA

**ID No. 65/13**

Sh. Rajiv Sirohi

#### **Versus**

M/s. Quest Retail Pvt. Limited.

#### **NO DISPUTE AWARD**

The Central Government in the Ministry of Labour vide notification No L-42011/29/2013-IR(DU) dated 23.05.2013. referred the following industrial Dispute to this tribunal for adjudication :

“Whether the action of the management of M/s. Quest Retail Pvt. Ltd. in termination the services of Sh. Rajiv Sirohi S/o Sh. Dharmender Singh, Ex-Store Supervisor w.e.f. 28.10.11 is justified or not? To What relief the workman is entitled to and from which date?

On 8/7/13 reference was received in this tribunal. Which was register as I.D No. 65/2013 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workman/claimant Sh. Rajiv Sirohi not filed claim statement but Claimant moved an application on 11.11.13 through which he prayed that his statement of claim be dismissed.

Management also moved following application on 24.10.2013 :

1. That the above noted matter is pending before this Hon'ble Court and same is fixed for today i.e. 24.10.2013.

2. That it is submitted herein that the complainant has not approached the Hon'ble Court with clean hands and has suppressed the true and material facts, as a matter between the same parties with same cause of action has already been pending before the Hon'ble Court of Industrial Tribunal cum Labour Court -II, Room No. 33, Block A, Ground Floor, Karkardooma Court Complex, Karkardooma, Delhi -110032 under ID No. 65/13 which was firstly fixed for 12.08.2013 and now the same is pending for 04.12.2013 for filing of claim statement and presence of the complaint /petitioner. The copy of reference order dated 23.05.2013 issued by Sh. Johan Topno, Under Secretary Government of India/Bharat Sarkar, Ministry of Labour/ Shram Mantralya under reference No. L-42011/29/2013-IR(DU), and notice issued by presiding officer Industrial Tribunal cum Labour Court-II , Room No. 33 , Block A, Ground Floor , Karkardooma Court Complex, Karkardooma, Delhi-110032 are attached herewith as for ready reference please as well as another demand notice/complaint was pending between same parties with same cause of action before The Regional Labour Commissioner (Central) 4th Floor, Jeevandep Building, Parliament Street, New Delhi which was being dismissed on 18.10.2013. Photo copy of order dated 18.10.2013 is attached herewith for ready reference please. On the said grounds the present matter is maintainable before this Hon'ble Court :

3. That it is pertinent to mention herein that the demand notice being given by complainant is not complete one as some pages of same are missing.

4. That it is further submitted herein that in the event the said matter would not be dismissed at the initial stage for the reasons mentioned herein above, in that eventuality, the respondent /management reserves its rights get complete copy of demand notice in order to file detailed reply of said demand notice on a later stage as and when directed by the Hon'ble Court.

#### **PRAYER**

So, keeping in view the above stated facts and circumstances, it is therefore most respectfully prayed that the present matter may kindly be dismissed throughout, in the interest of justice.

On the basis of non-interestedness of workman. The proceeding of this case is not liable to be proceeded further. Hence proceeding of the case is liable to be dropped and no dispute award is liable to be passed. Which is liable to be passed.

No Dispute Award is accordingly passed.

Dated : 09/05/2014

HARBANSK KUMAR SAXENA, Presiding Officer

नई दिल्ली, 2 जून, 2014

**का.आ. 1724.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आर्मी बेस वर्कशॉप के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ संख्या 156/12) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/5/2014 को प्राप्त हुआ था।

[सं. एल-14012/4/2012-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 2nd June, 2014

**S.O. 1724.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No. 156/12) of the Central Government Industrial Tribunal/Labour Court No. II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Army Base Workshop and their workman, which was received by the Central Government on 29/05/2014.

[No. L-14012/4/2012-IR (DU)]

P. K. VENUGOPAL, Section Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, DELHI

#### PRESENT:

SHRI HARBANSK KUMAR SAXENA

**ID No. 156/12**

Sh. Pankaj Kumar

**Versus**

Army Base Workshop

#### NO DISPUTE AWARD

The Central Government in the Ministry of Labour vide notification No L-14012/4/2012-IR(DU) dated 06/11/2012 referred the following industrial Dispute to this tribunal for adjudication :-

“Whether the action of the management of 510, Army Base Workshop, Merut Cantt holding the election of works committee Treating the workshop as single constituency without ascertaining Nos. of

the union and who are not member of union, is unjustified if so, What relief workmen are entitled to?”

On 19/11/2012 reference was received in this tribunal. Which was register as I.D. No. 156/2012 and claimants were called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Workman Sh. Pankaj Kumar filed Claim statement on 19.3.2013. On the basis of contents of claim statement. Workmen/claimants prayed that strict punitive action be taken against management/election officer for conducting election illegally of executive committee for the year 2011-2013

Management filed written statement wherein allegation of claim statement has been denied.

My Ld. Predecessors on 26.04.2013 framed following issues :

1. Whether the dispute has not acquired status of an industrial dispute for want of espousal by a union or considerable number of workmen in the establishment of the management?
2. As in terms of reference.

Opportunity to adduce their evidence was given to claimants/workmen but inspite of several opportunities workman fail to adduce his evidence in support of his case.

Hence his right of adducing evidence has been closed. Management was provided opportunity to adduce its evidence.

In support of its case management produced its evidence by way of producing witness MW1 Sh. D.C Gaddi, EME Officer (Civ). None on behalf of workmen appeared to cross-examine witness of management .

Hence there is unrebutted testimony of MW1 Sh. D.C. Gaddi, EME Officer (Civ).

On the basis of aforesaid discussion I am of considered view that reference of workmen is liable to be dismissed. Which is accordingly dismissed. Reference is thus decided in favour of management and against workmen.

No Dispute Award is accordingly passed.

Dated:-09/05/2014

HARBANSK KUMAR SAXENA, Presiding Officer

नई दिल्ली, 4 जून, 2014

**का.आ. 1725.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद, के पंचाट (संदर्भ संख्या 106/99) को प्रकाशित करती है जो केन्द्रीय सरकार को 04/06/2014 को प्राप्त हुआ था।

[सं. एल-20012/63/1999-आईआर (सी-I)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 4th June, 2014

**S.O. 1725.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 106/99) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad now as shown in the Annexure, in the Industrial Dispute between the management of M/s. BCCL, and their workmen, received by the Central Government on 04/06/2014.

[No. L-20012/63/1999-IR (C-I)]

B. M. PATNAIK, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, DHANBAD

In the matter of reference U/S 10(1) (d) (2A) of  
I.D.Act. 1947.

#### Reference No. 106 of 1999

Employer in relation to the management of  
Katras.Area of M/S. BCCL.

AND

Their workman

#### PRESENT:

Sri R. K. Saran, Presiding Officer.

#### APPEARANCES:

For the Employers : None

For the Workman : Sri B.B. Pandey, Advocate

State: Jharkhand Industry : Coal.

Dated : 23/4/2014

#### AWARD

By order No.-L-200 12/63/1999-IR (C-I), dated 04/06/1999 the Central Govt. in the Ministry of Labour

has, in exercise of powers conferred by clause (d) of Sub-Section (I) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act.1947, referred the following disputes for adjudication to this Tribunal :

#### SCHEDULE

“ Kya B.C.C.L. Katras Area ke prabandh tantra dwara date 19.09.96 se sri Rajendra Hari, loader ko anadhikrit anupasthit ka karan seva se barkhashat kiya jana bidhiwat awan nayayashangat hai ? yadi nahi to karmakar kish rahat ke patra hai ?? ”

2. The case is received from the Ministry of Labour on 15.06.1999. After receipt of reference, both parties are noticed. The Sponsoring Union files their written statement on 27.11.2008. And the management files their written statement -cum-rejoinder on 05.03.2009. The point involved in the reference is that the workman has been dismissed from his services on absenteeism.

3. During preliminary hearing it is revealed that the case is dismissal of workman for long absence on duty. But he has already out of service for 18 years. It is felt to give another chance to the workman to serve.

4. Considering the facts and circumstances of this case, I hold that he be taken into job as a fresh employee. But the workman be kept under probation for a period one year and his performance report be given to the under signed. Therefore the question of back wages does not arise at all.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 4 जून, 2014

**का.आ. 1726.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद, के पंचाट (संदर्भ संख्या 69/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04/06/2014 को प्राप्त हुआ था।

[सं. एल-20012/323/1999-आईआर (सी-I)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 4th June, 2014

**S.O. 1726.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 69/2000) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad now as shown in the Annexure, in

the Industrial Dispute between the management of M/s. CCL, and their workmen, received by the Central Government on 04/06/2014.

[No. L-20012/323/1999-IR (C-I)]

B. M. PATNAIK, Desk Officer

#### **ANNEXURE**

#### **BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 1), DHANBAD**

In the matter of a reference U/s. 10(1)(D)(2A) of I.D. Act,  
1947

#### **Ref. No. 69 of 2000**

Employers in relation to the management of Tapin South Colliery of M/s. CCL.

**AND**

Their workmen

#### **PRESENT:**

Sri Ranjan Kumar Saran, Presiding officer

#### **APPEARANCES :**

For the Employers : Sri D.K. Verma, Advocate

For the workman : None

State : Jharkhand Industry : Coal

Dated. : 11/4/2014

#### **AWARD**

By Order No.L-20012/323/99- (C-I), dated.28/01/2000, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal :

#### **SCHEDULE**

“ Whether the demand of the Union/workmen for regularization of S/Sri Lilu Mahato, Basdeo Mahto, Kari Turi, Ram Swroop Singh, Dasrath Mahto and Jagarnath Ram, P.R.W of Tapin South Colliery of M/s. CCL to Time rated category and payment of Group-V wages and S.P.R.A etc is fair and justified? If so, to what relief the concerned workmen are entitled ?”

2. The case is received from the Ministry of Labour on 09.02.2000. After receipt of the reference both parties are noticed. The workman files their written statement on 12.10.2001.

3. The Short point involved in the case is, whether the workman entitled to get group-V wages with SPRA. The case of the workmen is that they were time rated

workers and after their conversion to piece rated workers, they are to be paid Group V wages with SPRA.

4. It is admitted by the management that the workman who were piece rated workmen converted to time rated workmen but they were not paid S.P.R.A.

5. On the other hand the management at paragraph 4 has admitted that the concerned workmen were provided piece rated job of Group-V. On some occasion they received the Group-V wages according to the computation. But the management has not specifically stated up to what date the workmen were paid group-V wages and from what date that was discontinued. Unless that is specifically pleaded and proved the workman has right to get Group-V wages.

6. Considering the fact and circumstances of the case I hold that the demand of the Union /workmen for regularization of S/Sri Lilu Mahato, Basdeo Mahto, Kari Turi, Ram Swroop Singh, Dasrath Mahto and Jagarnath Ram, P.R.W of Tapin South Colliery of M/s. CCL to Time rated category and payment of Group-V wages and S.P.R.A. etc is fair. Hence they are to be given Group-V wages and consequential benefits such as SPRA be given. It is also seen that the workman Kari Turi is died during the pendency of the case, hence his legal representative namely Smt. Jirwa Devi w/o of deceased workman be given all monetary benefits.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 4 जून, 2014

**का.आ. 1727.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 55/2001) को प्रकाशित करती है जो केन्द्रीय सरकार को 04/06/2014 को प्राप्त हुआ था।

[सं. एल-20012/477/2000-आईआर (सी-I)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 4th June, 2014

**S.O. 1727.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref No. 55/2001) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad now as shown in the Annexure, in the Industrial Dispute between the management of M/s. BCCL, and their workmen, received by the Central Government on 04/06/2014.

[No. L-20012/477/2000-IR (C-I)]

B. M. PATNAIK, Desk Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL (No. 1), DHANBAD.**  
**IN THE MATTER OF A REFERENCE U/S 10(1) (D) (2A)  
OF I.D.ACT, 1947**

**Ref. No. 55 of 2001**

Employers in relation to the management of Katras Area, M/s. BCCL

**AND**

Their workmen

**PRESENT:**

Sri Ranjan Kumar Saran, Presiding officer

**APPEARANCES:**

For the Employers	:	Sri U. N. Lall, Advocate
For the workman	:	Sri S. K. Sinha, Advocate
State : Bihar		Industry : Coal

Dated : 21/4/2014

**AWARD**

By Order No.L-20012/477/2000-IR(C-I), dated 19/02/2001, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal :

**SCHEDULE**

“Whether the demand of the Union for providing employment to the dependent brother of late Rajendra Singh from the management of Gaslitand Colliery of M/s. BCCL is justified ? If so, to what relief is the said dependent entitled ?”

2. The case is received from the Ministry of Labour on 08.03.2001. After notice, both parties appeared, the workman files their written statement on 05.11.2001 and the management files their written statement on 11.06.2002.

3. The short point involved in the case is that as the applicant applied for job for dependent employment delayedly, his claim for job was rejected.

4. Admitted case is the applicant was entitled for job in the year 1984 when he was about 22 or 23. But there was a dispute for job for which the applicant was asked to produced the succession certificate.

5. Finally it was produced and the applicant again applied for job and his claim was refused as he was 36 years i.e he crossed 35.

6. The applicant raised I.D. reference received and registered in 2001 . In the meantime 13 years has been spent in the court. This being the situation, every body contributed for the delay. Of course now the applicant is 53 years of age. Since for such a long delay, alone the workman is not responsible.

7. Considering the facts and circumstance of this case, I hold that the demand of the Union for providing employment to the dependent brother of late Rajendra Singh from the management of Gaslitand Colliery of M/s. BCCL is justified Hence, he be given a job after observing all formalities. However management need not been so stringent, for medical fitness etc of the applicant before taking the applicant in job within one month from the date of publication of the award in the gazette.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 4 जून, 2014

**का.आ. 1728.—**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एवं इण्डिया लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुम्बई, के पंचाट (संदर्भ संख्या सीजीआईटी 2/5 का 2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04/06/2014 को प्राप्त हुआ था।

[सं. एल-11012/19/2004-आईआर (सी-I)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 4th June, 2014

**S.O. 1728.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref No. CGIT-2/5 of 2005) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Air India Limited, and their workmen, which was received by the Central Government on 04/06/2014.

[No. L-11012/19/2004-IR (C-I)]

B. M. PATNAIK, Desk Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL No.2, MUMBAI**

**PRESENT:**

K. B. KATAKE, B.A.LL.M, Presiding Officer

**REFERENCE No. CGIT 2/5 of 2005****EMPLOYERS IN RELATION TO THE MANAGEMENT OF AIR INDIA LTD.**

The Chairman & Managing Director,  
Air India Ltd.  
Old Airport, Kalina  
Santacruz (E),  
Mumbai-400029

**AND****THEIR WORKMEN**

The President,  
Air India Service Engineers' Association  
18, Tower Building  
Senapati Bapat Marg,  
Dadar (W)  
Mumbai-400 028

**APPEARANCES:**

FOR THE EMPLOYER : Mr. L. L. D'Souza,  
Representative

FOR THE WORKMEN : Mr. A.S. Peerzada, Advocate

Mumbai, dated the 1st January, 2014

**AWARD**

The Government of India, Ministry of Labour & Employment by its Order No.L-11012/19/2004 -IR (C-I) dated 06/10/2004 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication :

“क्या एअर इंडिया मुम्बई के प्रबंधतंत्र द्वारा विदेशों में पदस्थ सर्विस इंजीनियरों को दिए जाने वाले Productivity Linked Incentive अगस्त 2002 से बंद कर दिया जाना विधिवृत्त उचित एवं न्यायसंगत है ? यदि नहीं तो संबंधित कर्मकार किस लाभ के पात्र हैं ?”

2. After receipt of the reference, the notices were issued to both the parties. In response to the notice, the second party union filed their statement of claim at Ex-11. According to them the first party is one of the leading Airlines and doing good business. The second party workmen are Service Engineers for the purpose of maintenance of the aircrafts of the first party. They are workmen and employees of the first party. The first party company has signed a memorandum of settlement with Air India Aircraft Maintenance Engineers' Association on 3/5/1996 and finalized the charter of demands submitted by the said association. The clause 7 & 8 of the Memorandum of Settlement, inter alia provides for the introduction of performance/productivity linked incentive

scheme (for brevity referred as PLI). This PLI Scheme work practices covered by the settlement is also applicable to the service engineers who are posted on duty outside India and the payment in respect of the same is to be made in equivalent foreign currency of their respective stations at the current IATA rate of exchange. The said settlement was signed during pendency of Ref. no. NTB 1 of 1990 before this Tribunal. The said settlement was placed before Tribunal and accordingly the award was passed in terms of the said settlement and the settlement has effect of award and binding on the parties. The service Engineers were thus getting the benefit of the said award since May 1996 onwards and they were being paid PLI benefits in equivalent foreign currency of their respective stations at the current IATA rate of exchange for their discharging duties outstation like their counter parts.

3. Surprisingly without any prior intimation or notice, all of a sudden first party has withdrawn unilaterally, illegally and arbitrarily the said PLI in respect of the Service Engineers w.e.f. 23/09/2002 under the guise and false pretext of keeping the said in abeyance till further notice. The action of the first party was discriminatory, illegal and unjustified. The union therefore served the first party with a notice of strike. On the basis of said strike notice and demand raised by the second party conciliation proceeding was held before ALC (C) Mumbai. As the conciliation failed on the report of ALC (C), Labour Ministry has sent the reference to this Tribunal. The second party union therefore prays that the first party be directed to restore the benefit of PLI to the Service Engineers forthwith with retrospective effect from August 2002 together with interest @ 18%. They also prayed to direct first party to pay benefits of PLI in pursuance of the memorandum of settlement to Service Engineers regularly on their posting on duty at foreign stations and also pray for cost.

4. The first party management resisted the statement of claim of the union vide their written statement at Ex-16. According to them as per the order of Ministry of Corporate Affairs, Government of India, Air India Ltd. and Indian Airlines Ltd. are amalgamated with the National Aviation Co. of India Ltd. According to them the statement of claim is not signed by the Association and it was signed by Shri G. Ray Choudhary and 6 Ors. Therefore cognizance of statement of claim cannot be taken. According to them the employees working in India were entitled to the payment of PLI and there was no provision for making such payment to the employees posted abroad. The posting orders issued to the Service Engineers posted abroad specifically indicate the salary and allowances that would be paid to them on such postings. It does not include PLI. The payments of PLI were erroneously and inadvertently paid to the Service Engineers posted abroad and the said erroneous payment was pointed out by Govt. Auditors. Consequently the said payments were discontinued. They

denied all the contents in the statement of claim and submitted that the Service Engineers posted abroad are not entitled to get PLI. Therefore the company has rightly discontinued their PLI. According to them they are not entitled to get the said payment. Therefore the first party prays that the reference be dismissed with cost.

5. Following are the issues for my determination I record my findings thereon for the reasons to follow.

Sr. No.	Issues	Findings
1.	Whether Service Engineers posted in foreign countries are entitled for payment of "Productivity Linked Incentive" w.e.f. August 2002 ?	Yes
2.	Whether decision taken by first party of discontinued payment of Productivity Linked Incentive w.e.f. August 2002 is just and legal?	No.
3.	What relief can be availed?	As Per order below.
4.	What order?	As per order below.

## REASONS

### Issue No.1 & 2 :

6. Both the issues are interlinked, therefore, in order to avoid of repetition of discussion, they are discussed and decided simultaneously. In this reference a short question for my determination is whether the Service Engineers posted in foreign countries are entitled for the Productivity Linked Incentive Scheme. In this respect I would like to point out that the fact is not disputed that there was dispute between the Aircraft Maintenance Engineers and the first party. The first party had agreed to pay the PLI to the Maintenance Engineers and settlement/agreement was signed on 3/5/1996. As per the said agreement, award was passed in the Ref.1/1990. Accordingly the PLI was being paid to Maintenance Engineers as well as Service Engineers who were serving abroad. It is a fact that the payment of PLI was withheld by the first party as the Govt. Auditor has raised objection for the said payment to the Service Engineers serving abroad. In this respect MW-1 has stated in his cross at Ex-26 that, Service Engineers are actually making the aircraft serviceable for flying both in India and abroad. He admitted that the Aircraft Engineers are merely certifying the work done by Aircraft Service Engineers. He further

says that considering this aspect Aircraft Service Engineers were also paid PLI in the line of Aircraft Engineers. PLI was withheld or discontinued from 23/9/2002 in respect of Service Engineers posted abroad beyond 45 days whereas, the Aircraft Engineers continue to receive PLI even thereafter. In this respect Id. adv. for the second party union submitted that there is no reason for such discrimination. On the other hand he submitted that the Aircraft Engineers are not manually working on the aircraft as like Service Engineers. Inspite of that PLI is being paid to them. The Service Engineers are infact working manually on the aircraft and making the aircraft serviceable for flying. In such circumstances it is clear that the service Engineers are more desirable to get PLI. MW-1 has admitted in his cross at Ex-26 that besides salary the Aircraft Service Engineers serving abroad do not get any other monthly benefit. In the circumstances, there is no reason to justify the action of the management to discontinue PLI of the Aircraft Service Engineers posted abroad. Discontinuation of PLI violates the right of equality of the Aircraft Service Engineers. In this back drop I come to the conclusion that the Service Engineers posted in foreign countries are entitled to get Productivity Linked Incentive as prayed for and also hold that discontinuation of the same by the first party w.e.f. August 2002 is not just and legal. Thus I decide the issue no.1 in the affirmative and issue no.2 in the negative and proceed to pass the following order.

## ORDER

The reference is allowed with no order as to cost.

Withholding the PLI of Aircraft Service Engineers serving abroad is found not just and legal. The first party is directed to release the PLI of these Service Engineers since August 2002.

Date : 01/01/2014

K. B. KATAKE, Presiding Officer

नई दिल्ली, 4 जून, 2014

**का.आ. 1729.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद, के पंचाट (संदर्भ संख्या 12/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 04/06/2014 को प्राप्त हुआ था।

[सं. एल-20012/478/2001-आईआर (सी-I)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 4th June, 2014

**S.O. 1729.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref No. 12/2002) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad now as shown in the Annexure, in the Industrial Dispute between the management of M/s. BCCL, and their workmen, received by the Central Government on 04/06/2014.

[No. L-20012/478/2001-IR (C-I)]

B. M. PATNAIK, Desk Officer

#### **ANNEXURE**

#### **BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD**

#### **PRESENT:**

Shri Kishori Ram, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act., 1947

#### **REFERENCE NO. 12 OF 2002.**

#### **PARTIES:**

The Regional Secretary,  
U.C. W.U.E.J. Area, Ram Mitra Bhawan,  
PO : Bhowra, Distt;Dhanbad  
Vs. Project Officer, Bhowra (S) Colliery of  
M/s. BCCL, PO: Bhowra, Dist: Dhanbad

Ministry's Order No. L-20012/478/2001-IR(C-1)  
dt.20.02.2002

#### **APPEARANCES:**

On behalf of the workman/ : Mr. S. C. Gaur,  
Union Ld. Advocate

On behalf of the : Mr. D.K. Verma,  
Management Ld. Advocate

State : JHARKHAND Industry : COAL

Dhanbad, dated the 29th April, 2014

#### **AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No.L-20012/478/2001-IR(C-I) dt.20.02.2012.

#### **SCHEDULE**

“Whether the action of the Management of M/s. BCCL Bhowra (S) Colliery in denying employment as per provision of NCWA- V to Subhash Saw dependent son of Late Rajbali Saw is justified ? If not, to what relief is the said dependent entitled ?”

On receipt of the Order No. L-20012/478/2001-IR(C-I) dt.20.02.2002 of the above mentioned reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, the Reference Case No. 12 of 2002 was registered on 1st April,2002 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The Union and the O.P./Management through their own Learned Counsels appeared in, and contested the case.

2. The case of petitioner Subhash Saw as sponsored by the U.C.W.U. is that his father Rajbali Saw as the D.C.L. workman of the BCCL at Bhowra (S) Colliery of E.J.Area died in harness on 02.05.1994, leaving his wife Kalawati Devi, and son petitioner. In spite of the most lackadaisical non-cooperative attitudes of the employers towards the widow of the workman for his employment as the dependent of the workman under the clause 9.3.2. under the Social Security of NCWA-V as similar in the NCWA-VI meant for Labour and Social Welfare, she even after many hurdles at every level of the Management had applied in the prescribed form of many paraphernalia on 23.03.1995 within nine months of her husband's death on 02.05.1994. But she was disqualified for it being over 45 years as per the letter of the Management dt.04.06.1997, instructing her that she would be granted monetary compensation under clause 9.5.0. (ii).She also waited for such monetary compensation but no order came for it. Meanwhile the widow as a matter of right decided to opt for employment of her son under said relevant provision of NCWA-V, by forgoing her monetary compensation. The consequently her son petitioner the defendant of the deceased workman on her direction, timely submitted his prescribed application on 21.08.1998 within one year and 2 and half a month on the for her employment under the said provision. But by devising a way to discard his claim, the Management as per the Order dt.16.5.2000 of the H.Qr. of the BCCL rejected this application/claim for employment of Sri Subhash Saw on no other ground except on belated one. Though the NCWA provides no time limit for making such application to the management for such dependant employment. The taking long time by the Management from 21.08.1998 to 16.05.2000 in regretting the application of the applicant for his employment not only made him suffer for their own delay but also deprived the petitioner of his legal right to employment contrary to the NCWA, which is the agreement between the employer and JBCCI. It was out and out latches on their post even the employers did not pay the widow the monetary compensation. No

management can take advantage of its own wrong as the principle of equity mandates. Though the employers have been providing employment to dependants under the provision of NCWA-V even on the applications received after five years or so, the applications of the petitioner regretted as belated. The decision of the employers is malafide arbitrary, illegal and justified. Even at the intervention of the Asstt.Labour Commissioner (Central), Dhanbad- III in the Industrial Dispute raised by the Union concerned, though the employers submitted their statement on 10.04.2002,its failure in conciliation resulted in the reference for an adjudication. In case of non-compliance of the relevant provisions of the NCWA-V by the employers, the petitioner has also sought damage of the wages per day as specified in his written statement.

3. The Union Representative in the rejoinder on behalf of the petitioner has denied all the allegations of the O.P./Management, and stated that the reference is legally maintainable, after exhausting all avenues to get justice, the I.D. was raised. No limitation Act is applicable to the I.D.Act. The widow has the first claim for employment. She has the option for accepting compensation or for claim employment to one of her leaving dependent son. The dependent son Subhash Saw had applied for self employment after getting no objection from his mother. The claim of the petitioner is legal and justified.

4. Just adversely challenging the maintainability of the reference in law and facts, the case of the Management with categorical denials is that no employer-employee relationship exists between the Management and petitioner Subhash Saw, as the latter is not a workman in the terms of Sec. 2S of the Industrial Dispute Act, 1947. The Union concerned has raised the reference in the year 2001 after seven years following the death of Late Rajbali Saw. The dispute is stale one liable to be rejected summarily. None of the dependents of the workman applied for employment after the death of Late Rajbali Saw in the year 1994. However, in the year 1995,one Kalawati Devi claimed her employment in place of deceased workman, alleging as his widow, without enclosing "No objection" of other legal dependents as found by the Management after examination of her application. Besides, the Management after considering her application also found that she being about 45 years old was not entitled to employment, so she was rightly advised to apply for monetary compensation as under the clause 9.5.0. of the NCWA V, but she did not apply for it. After several years, Sri Subhash Saw over delayedly applied for employment under the Management of M/s. BCCL on compassionate ground. But the Management also regretted the application of the petitioner as belated. Further the plea of the Management about the provision of the NCWA for providing an employment is that it is a contravention of the Constitution of India. It is the settled law that the compassionate appointment is not

legal right invocable by any person at any time. The petitioner had not applied for employment immediately after the death of his deceased father. It shows that he was not dependent of the deceased workman at the time of his death. So, the demand of the Union is neither legal nor justified.

5. In the rejoinder of the OP/Management, categorically denying the allegations of the petitioner, it has been alleged that the Union concerned has no locus standi to raise the I.D. on behalf of a person who is not workman u/s 2S of the I.D. Act. Payment of monetary compensation in lieu of employment is stipulated under clause 9.5.0. of the NCWA.

Mr. S.C. Gaur, Learned Counsel for the Union/petitioner concerned has to submit that Kalawati Devi (WWI),the widow of the deceased employee Rajbali Saw following his death during service on 2.5.94 had applied for her employment as per her application on 23.03.1995 (Ext.W.1),but the Management as its letter dt. 3/4.6.1997 (Ext.W.3) regretted her application on ground of her being about more in 45 years of age, instructing her to apply for her monetary compensation, then she timely submitted the representation (dt.21.8.1998 - Ext. W.4) within the prescribed application for employment of her son Subhash Saw, but the Management did not provide employment to her son as per letter (dt.15/16.5.2000- Ext.W.5) regretting it belated in disregard to the provision under clauses 9.3.3. and 9.3.4. of the NCWA-V which mandatorily provide for employment to any of the dependents including wife or son of the deceased workman, so the action of the Management is illegal and unjustified. In support of his argument, Mr. Gaur has relied upon the case of Sakaldeep Munda Vs. Central Coalfields Ltd reported in 2009 (4 ) JLJR 702(SB) as it relates to, has submitted that over compassionate appointment under clause 9.3.0 of the N.C.W.A., rejection of claim for it on the ground that elder brother (Step-brother) of petitioner was already employed against this mother died as a regular employee of CCL in respondent Company, and any Circular/Order can not be unilaterally issued by employer prescribing any period of limitation or putting any condition for obtaining a compassionate appointment by a dependent of regular employee who died in harness, which is not there in the settlement/agreement. Whereas the petitioner applied for appointment on compassionate ground against death of his father who being a regular employee died in harness; so impugned order of rejection can not be substantiated, and accordingly quashed, and application allowed (Para 5 to 9).The ruling has been also relied upon 2007 (4) JLJR (SC)144, Mohan Mahato Vs. Central Coal field Ltd. & Ors. In the instant case, Mr.Gaur, Learned Counsel for the petitioner has contended that there is nothing delay on the part of the petitioner, rather latches on the part of the employer who had lastly regretted the petitioner's application as per their letter dt.16.5.2000 (Ext.W.5);

moreover no NCWA provides for any limitation or any circular by the employer for application for employment on compassionate ground as upheld by the Hon'ble Apex Court in the aforesaid relied ruling.

In response to it, Mr. D.K. Verma, Learned Counsel for the O.P./Management has contended that indisputably the workman died in the year 1994 but the petitioner had made his claim for employment in the 2000, after much delay, so he is not entitled to any such relief, as in similar case of Chhata Devi Vs Bharat Coking Coal India Ltd. reported in 2012 (4) JLJR 349(SB) it has been held that if the claim has made after 18 months, the claimant is not entitled to any relief, as it is not the sweet will of the petitioner to apply for employment, so considering the case of Mohan Mahato reported in 2007(8) SCC 549 wherein the Hon'ble Supreme Court was pleased to hold that an application for compassionate employment must be preferred without undue delay and within a reasonable period.

6. On the perusal of the materials available on the case record, it is apparent the death of late workman Rajbali Saw in harness on 2.5.94, thereafter within a year on 23.3.95 as per application dt. 23.3.1995 (Ext.W.1), his illiterate widow Kalawati Devi had applied in the prescribed form with all enclosures for her employment, but the management as per their letter dt. 3/4.6.1997 (Ext W.3) appears to have regretted it and acted beyond jurisdiction in assessing her age above 45 years whereas she appeared to be 41 years evidently by her age 35 as on 29.06.1987 recorded in the workman's Service Excerpt.(Ext.W.2). So in such circumstance the instruction of the Management for her to apply for monetary compensation under clause 9.5.0. of the NCWA-V which is only applicable to female dependents appears to a malafide misguide to the illiterate innocent widow. The same clause under its sub-clause (ii) specifies: 'In case of death ... if the female dependent is below the age of 45 years she will have the option either to accept the monetary compensation of Rs. 2000 per month or employment'. Just after the rejection of her application by the Management, the widow filed her application in prescribed Forms (triplicate) received on behalf of the Management on 21.8.1998(Ext.W.4) for the compassionate employment of her younger son petitioner Subhash Sao under clause 9.3.2. of the NCWA-V which holds good with employment to one dependent of the worker who dies in harness, but the case of the petitioner was regretted being a belated case of 1994 as per the letter dt 15/16.5.2000 of the Personnel Manager (MP & R) (Ext.W5) after more than one and half a year. There was apparently no delay on the part of the widow in filing her application firstly, for her employment, then for employment of her said son within reasonable time. At this point, the argument of Mr.S.C., Gaur, the Learned Counsel for the Union/petitioner

outweighs that of Mr.D.K.Verma, Learned advocate for the O.P.Management in view of the Settled Law upheld in the case of Rajendra Pd.State of Jharkhand, 2009(4) JLJR 703(SB) relied upon 2007(4) JLJR (SC), Mohan Mahato Vs. M/s. Central Coal field Ltd. & Ors.

In result, it is, hereby, awarded that the action of the Management of BCCL, Bhowra (S) Colliery in denying employment as per provision of NCWA -V to Sri Subhash dependent son of Late Rajbali Saw is totally unjustified. Hence; the said dependent is entitled to his employment under 9.3.4. of the NCWA-V as qualified at the relevant time. The O.P./Management is directed to implement the Award within one month from the receipt of its publication by the Government of India, Ministry of Labour & Employment, New Delhi, in the Gazette of India, even by relaxing his age.

KISHORI RAM, Presiding Officer

नई दिल्ली, 4 जून, 2014

**का.आ. 1730.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 160/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04/06/2014 को प्राप्त हुआ था।

[सं. एल-20012/68/2001-आईआर (सी-I)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 4th June, 2014

**S.O. 1730.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref No. 160/2001) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the Industrial Dispute between the management of M/s. BCCL, and their workmen, received by the Central Government on 04/06/2014.

[No. L-20012/68/2001-IR (C-I)]

B. M. PATNAIK, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD PRESENT:

Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

## **REFERENCE NO. 160 OF 2001**

## PARTIES:

Shri B.S.Pandey,  
Jt.Secretary,Janta Mazdoor Sangh,  
Gopalichak Colliery of M/s. BCCL,  
Kusunda, Dhanbad

Vs.

The General Manager,  
P.B.Area of M/s. BCCL, Kusunda, Dhanbad.

Ministry's Order No. L-20012/68/2001—C-I dt.  
22.5.2001

## **APPEARANCES:**

On behalf of the Workman/ : Mr.T. P. Jha,  
Union Advocate

On behalf of the : Mr. D. K. Verma,  
Management Ld. Advocate

Dated, Dhanbad, the 3rd April, 2014

## AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(l)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/68/2001 C-1 dt.22.5.2001.

## **SCHEDULE**

“Whether the demand of the Union to regularize Sri Sagar Nand Napit as Attendance clerk is proper and justified? If so, to what relief is the concerned workman entitled and from what date ?”

On receipt of the Order No. L-20012/68/2001-C.1 dt. 22.5.2001 of the above mentioned reference from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, the Reference Case No. 160 of 2001 was registered on 03.07. 2001 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The workman and the O.P./Management through their Lawyers appeared in, and contested the case.

2. The case of workman Sagar Nand Napit as sponsored by the Janta Mazdoor Sangh, Gopalichak Colliery is that he though the underground Munshi has been working as the Attendance Clerk w.e.f. 30.04.1988 on having been unauthorized by the Competent Authority of

the Gopalichak Colliery to do so as per the Office Order dt. same. He has been unblemishedly working at the Colliery for 30 years. Out of the two others employees S/Shri Dalbag Singh and Praduman Lal along with the workman were authorized to do different job as per the Office Order 30.4.1988. The former long back and the latter have been regularized and absorbed as the Attendance Clerk and the Mining Sardar respectively, but the workman's regularization despite recommendation by the Colliery Authorities to the Area Management was unconsidered, rather it was denied. It resulted in the reference for adjudication. Thus, the workman is entitled to regularization as Attendance Clerk in Grade II with all financial benefits from the said date.

In the rejoinder on behalf of the workman, all the allegations of the O.P./Management have been specifically denied, and it is stated that by virtue of due Authority of the Management, he has been continuously working as the Attendance Clerk for more than 14 years since 30.04.1988. How a workman can work on the post of the Attendance Clerk against temporary vacancy for more than 14 years since 30.04.1988. The demand of the workman for regularization as the Attendance Clerk is as per rules.

3. Whereas the contra pleaded case of the O.P./Management with categorical denials is that the present reference is legally unmaintainable, as the workman has been working in the capacity of the underground Munshi at Gopalichak Colliery. The underground Munshi performs the clerical duties as well as supervisory duties inside the Mine regarding supply of tubs, loading of tubs with coal from working place. He stands in clerical grade similar to the Attendance Clerk on the surface. The underground Munshi and the Attendance Clerks of the same grade are temporary but alternately engaged in view of the nature of the similar jobs according to the requirement or surpluses. The workman concerned was accordingly given to work as the Attendance Clerk on the surface against temporary vacancy or requirement as per the official Order of the Agent of the colliery. So, the demand of the workman for regularization as the Attendance Clerk on permanent basis is against the rules of the Company, and it is unacceptable, because the requirement of the underground Munshi fluctuates from time to time, the Management is bound to keep sufficiently experienced persons on the roll as the underground Munshi to look after the proper loading of coal, the supply of tubs and loading of coal inside the Mine. So employment of the workman as the Attendance Clerk on permanent post is too difficult for the Management. No workman can claim for regularization as the Attendance Clerk on the surface by virtue of his opportunity to serve so on temporary basis or at the instance of some powerful Union Leader or for some consideration, as the Management had made it clear that the persons working in underground should not be regularized on the surface job save and except on the

compelling circumstances of health conditions or otherwise. The workers prefer working on the surface to that in the underground. The workman has the permanent status of underground Munshi, he cannot demand for change of his status as Attendance Clerk by way of regularization. Thus, he is not entitled to any relief.

4. Categorically denying the allegations of the workman, the O.P./Management has stated in its rejoinder that the workman was given a chance to work as the attendance Clerk on temporary basis during leave and sick vacancies of the permanent Attendance Clerk. The purported letter dt.30.4.1988 is not the authorization for it as per the provision of the Coal Mines Regularization, 1957. This was purely a temporary arrangement. The workman may be alternatively employed, upgraded or promoted on the basis of obtaining statutory certificate or of merit in the performance of duties. There can not be any general rule for regularization of all such persons on different posts other than the post on which they were appointed on permanent basis.

#### FINDING WITH REASONS

5. In the reference case, WWI Sagar Nand Napit, the workman himself, on behalf of the Union, and MWI Narbadeshwar Nath, the Dealing Assistant, Legal Section, P.B. Area for the Management have been respectively examined.

The statement of workman Sagar Nand Napit (WWI) manifests his initial appointment as the underground Munshi, but as per the letter of authorization (Photocopy dt.30.4.1988 Ext.W.I), he along with Dalwar (Dalbag) Singh and Perduman Lal was authorized to work as the Attendance Clerk, and later on aforesaid Dalwag and Parduman were regularized by the Management as Attendance clerk and Mining Sardar respectively. Having continuously worked as the Attendance Clerk for years, he submitted his representation (dt.22.6.1998 -Ext.W.2) as also represented by the Union the representation (dt.27.1.1999- Ext.W.2/1). As per the Office Order (Dt.30.6.1998- Ext.W.3), he was allotted to the duty of Attendance clerk. But accepting his status of the underground Munshi whose work is clerical, the workman has affirmed his resumption of his duty as the Loading Munshi, relieving him of the work of the Attendance clerk as per the said letter of the Management, under whose order he was working as the Attendance Clerk without change in his status.

6. Whereas the contention of Mr.D.K.Verma, Learned Advocate for the O.P./Management is that the function of the underground Munshi, which is clerical Grade-II, is the performance of clerical work as well as supervisory duty; Attendance Clerk also lies under clerical Grade-II. The workman has to work of supervision over the work of the

piece rated workers by maintaining the Attendance Register in the Mine, but he seeks for his regularization as the Attendance Clerk on the surface which is not legally permissible. Further it has been submitted on behalf of Mr.Verma that no difference lies in the wages for both the posts except underground allowances for the underground workers; as such the workman is not entitled to regularization.

After perusal of the materials available on the case record, I find that the Office Order dt.30.4.1988 of the Management (Ext.W.I) was virtually the instruction of the Management to the workmen along with others, namely, Dalbag Singh and Praduman Lal to work as Attendance Clerk purely on temporary basis. The another Office Order dt. 30.6.1998 of the Management (Ext.W.3) clearly indicates the resumption of his duty as U/G Munshi at Pit No.2. It was virtually the Administrative Order of the management which need not any interference.

Under these circumstances I find the workman has no merits for regularization as Attendance Clerk; hence it is hereby awarded that the demand of the Union to regularize Sagar Nand Nait Attendance Clerk is neither proper nor justified. So the workman is not entitled to any relief from any date.

KISHORI RAM, Presiding Officer

नई दिल्ली, 4 जून, 2014

**का.आ. 1731.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद, के पंचाट (संदर्भ संख्या 306 का 2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04/06/2014 को प्राप्त हुआ था।

[सं. एल-20012/452/2001-आईआर (सी-I)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 4th June, 2014

**S.O. 1731.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 306/2001) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad, now as shown in the Annexure, in the Industrial Dispute between the management of M/s. BCCL, and their workmen, which was received by the Central Government on 04/06/2014.

[No. L-20012/452/2001-IR (C-I)]

B. M. PATNAIK, Desk Officer

## **ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD**

## **PRESENT:**

Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section  
10(1)(d) of the I.D. Act, 1947

## **REFERENCE NO. 306 OF 2001**

## PARTIES:

The Joint Secretary,  
Rastriya Colliery Mazdoor Sangh,  
Rajender Path, Dhanbad .

V<sub>S</sub>.

The General Manager,  
Sijua Area No. 5, Sijua , Dhanbad

Ministry's Order No. L-20012/452/2001-IR(C-I)  
dt. 29.11.2001

## **APPEARANCES:**

On behalf of the Workman/ : Mr.N. G. Arun,  
Union Ld. Advocate-cum-  
Union Representative

On behalf of the : Mr. D. K. Verma,  
Management Ld. Advocate

Dated, Dhanbad, the 4<sup>th</sup> April, 2014

## AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/452/2001-IR(C-I) dt. 29.11.2001.

## SCHEDULE

“Whether action of the Management in denial of the employment to Smt.Kiran Devi, Daughter-in-Law of Late Chintaman Mallah is justified? If not, to what relief is the said Smt.Kiran Devi entitled.”

On receipt of the Order No. L-20012/452/2001-IR(C-I) dt.29.11.2001 of the above mentioned reference from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, the Reference Case No. 306 of 2001 was registered on 10.12. 2001 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing

them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The workman and the O.P./Management through their Lawyers appeared in, and contested the case.

2. The case of petitioner Kiran Devi as represented by the sponsoring Union is that Late Chintamani corrected as Chintaman Mallah vide Ministry's letter dt.6.12.2005, who had been working as Fitter Helper at Tetulmari Colliery, expired on 16.10.1996, leaving his only son Yogendra Mahhal, who also expired on 24.9.1997 for some chronic disease. On the demise of the said workman, his petitioner daughter-in-law, his Kiran Devi applied for employment under clause 9.3.3. of National Coal Wage Agreement. Having highly recommended, the Management of Tetulmari Colliery., and of Sijua Area forwarded her prescribed application with other relevant papers for administrative approval of H.Or of M/s BCCL, Koyla Bhawan, Dhanbad, but after more than one year, the H.Qr. Management informed her of her application having been regretted, without any reason. The refusal to her employment under the said clause is also endorsed in NCWA-VI is breach of the Agreement National Coal Wage. The action of the Management in not providing employment to the defendant is not only violative of the said provision of NCWA, but also against the Articles 14 to 19 of the India Constitution. Even making the matter too ambiguous by the Management before the A.L.C.(C), Dhanbad, clearly manifests an anti-labour attitude of the Management. At last the failure in its conciliation resulted in the reference for adjudication.

3. The sponsoring Union in its rejoinder has categorically denied the allegations of the O.P./Management, and stated that no employer by his remarks can disregard rules of the NCWA, rather he is bound to obey it; moreover, only Service Excerpt is not a criterion to decide the name of dependent for providing an employment. The son of the deceased workman in course of preparing all the relevant documents for the application suddenly expired on 24.9.1997. The present petitioner as the sole dependent of the deceased workman is entitled to employment with all benefits.

4. Whereas with specific denials, the contra pleaded case of the O.P./Management is that deceased workman Chintaman Mallah, a permanent employee of Tetulmari, had died in harness on 16.10.1996. He had recorded the name of his son Jogendra Mallah in his Service Excerpt / record for the purpose of employment in the even of his premature death. But the deceased workman never mentioned the name of his daughter-in-law Smt. Kiran Devi as his dependant in his service record at any time.

Smt. Jogendra Mallah, the directly dependent son of the deceased workman during his life did not approach for the employment for NCWA by filing any prescribed application with requisites after the death of his father, but aforesaid Jogendra died on 24.9.1997. Offering an employment to widow daughter-in-law under the provision of NCWA arises if no such direct dependent is available for employment at the relevant time. Petitioner Kiran Devi was not widow daughter-in-law of the deceased workman at the time of his death. Submitting of her application after more than one year of the workman's death indicated the survival of the deceased's family for that period without earning. As per the settled law, the right of employment in such case extinguishes, and unexists due to delay in claiming for employment. Besides, the petitioner seems not dependent upon the deceased workman in any way of his Service Record. She is not entitled to employment under the NCWA.

In its rejoinder, the O.P. /Management has also specifically denied the allegations of the petitioner as baseless.

#### FINDING WITH REASONS

5 In the instant case, WWI Smt. Kiran Dev, the daughter- in-law of deceased workman, for the Union concened, and MWI Kumar Tanmay, Sr. Officer (Pers.) and MW2 Narendra Kumar Singh, the Office Supdt., Tetulmari Colliery for the O.P./Management have been respectively examined.

Mr. N.G. Arun, the Learned Advocate-cum-Union Representative, has to submit that petitioner Smt.Kiran Devi is widow wife of Late Jogendra Mallah (her Election ID Card - Ext.W.3)and daughter-in-law of the Late Ex-Fitter Helper Chintaman Mallah, following the death of her said husband and father-in-law on 24.09.1997 and 16.10.1996 (as per their original Death certificate (Ext.W and 4/1) respectively, and Mother-in-Law had predeceased on 31.10.1985 as per her original Death Certificate (Ext.W4/2). She was married to her said husband Jogendra Mallah in the year 1994 who was factually alive just as her married "Nanad" Kanti Devi at the time of her father-in-law's death, but her said husband also expired thereafter due to incurable chromic disease. Having got her Successive Certificate from the Distt, delegate,Dhanbad,(Ext.W.1), she was paid the P.F. as well as arrear of her father-in-law on her application (Ext.W.2) .Though she had applied for employment by fulfilling all the criteria thereof, it was rejected unreasonably after keeping it more than one year, as such the petitioner is entitled to employment as daughter-in-law of Late Chintaman Mallah.

6. Whereas vehemently opposing to it, Mr. D.K. Verma, Learned Counsel for the O.P./Management has contended that no daughter-in-law is the direct dependent of the deceased workman, so she is not entitled to any

relief under the NCWA as held by the Hon'ble High Court, Ranchi, Jharkhand. In the case of Kari Devi Vs. M/s Bharat Coking Coal Ltd., reported in 2007 (2) JUR 686. But the statement of MWI Kumar Tanmay,Sr.officer (Pers) of Tetulmari Colliery tangibly reveals that the petitioner's husband Yogendra Mallah, the son of workman Chitnaman Mullah dying in harness, had also died at the time of her application for employment that as per the NCWA provision any dependent of the deceased employee may get employment, and that in case there is no direct dependent of the deceased employee, indirect dependent of the deceased employee may apply for employment the cross paras 5 to 7 of MWI respectively).The same facts appear to have been corroborated by MW2 Narendra Kumar Singh, the Officer Superintendent of the same colliery.

After hearing the contention of M.Verma, the Learned Counsel for the O.P./Management, I have meticulously studied the aforesaid ruling cited on his behalf. The ruling relates to the widow of a deceased employee did not seek her appointment, rather she had claimed it for her son-in-law on the ground that she having only one daughter, was fully dependent on her son-in-law, so the question of giving employment to son-in-law did not arise at all, rather at best widow could be held entitled for monetary compensation as held by the Hon'ble High Court, Jharkhand therein. But the factum of the instant case under adjudication as contrasted with that of the ruling is quite distinct in the manner that in the present, only the petitioner daughter-in-law has survived following the death of the workman in harness, then of her husband Jogendra Mallah in a year, whereas her mother-in-law (Savitri Kamin W/o the workman) had already predeceased on 31.10.1985 as per her death certificate (Ext.W.4/2).So aforesaid ruling clearly seems to be inapplicable to this case.

At the point, the National Coal Wage Agreement (NCWA)-VI which is enforced w.e.f. 01.07.1996 under it clause 9.3.3. read with 9.3.2. heading "Employment to one dependent of the worker who dies while in service." postulates: "... If no such direct dependent is available for employment, brother widowed daughter/widowed daughter-in-law residing with the deceased and almost wholly dependent on the earnings of the deceased may be considered to be the dependent of the deceased. Thus the petitioner as the female dependant undoubtedly comes under the category. Aforesaid main heading clause 9.3.2. of the NCWA obviously dictates" In so far as female dependents are concerned, their employment/payment of monetary compensation would be governed by its para 9.5.0 with heading" Employment /Monetary compensation to female dependent, "which in its sub para (ii) postulates that in case of death ... If the female dependant is below the age of 45 years, she will have the option either to accept the monetary compensation of Rs. 3, 000 per month

or employment. In the instant case, the female petitioner has got the CMPF amount of her deceased workman farther-in-law, which stands beyond any challenge. Under such circumstances, the rejection of the petitioner's application dt.11.2.1998 (Ext.M.-5 series) by the O.P./Management as per their letter dt.22.3/8.4.1999 (Ext.M.6) in relation to her employment in place of her deceased workman father-in-law prima facie appears to be quite illegal and unjustified.

In result, it is hereby awarded that the action of the Management concerned in denial to the employment of Smt. Kiran Devi, the Daughter-in-law of Late Chintamani (read as Chintaman)Mallah is totally unjustified and illegal.Hence, the said Kiran Devi is entitled to her employment as the sole heir of/in place of the said workman under clause 9.5.0 read with clause 9.3.3 of the NCWA VI. The O.P./Management is directed to humanly implement the Award within one month from the date of its receipt following its publication in the Gazette of India by the Government of India, Ministry of Labouer & Employment, New Delhi.

KISHORI RAM, Presiding Officer

नई दिल्ली, 4 जून, 2014

**का.आ. 1732.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 87/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 04/06/2014 को प्राप्त हुआ था।**

[सं. एल-20012/53/1998-आईआर (सी-I)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 4th June, 2014

**S.O. 1732.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref No. 87/1999) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the Industrial Dispute between the management of M/s. ECL, and their workmen, received by the Central Government on 04/06/2014.

[No. L-20012/53/1998-IR (C-I)]

B. M. PATNAIK, Desk Officer

## ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

#### PRESENT:

Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

#### REFERENCE NO. 87 OF 1999

#### PARTIES:

The Vice President,  
J.S.S., Phatka, Shampur Colliery, Nirsachagtti,  
Dhanbad.

Vs.

General Manager, Shampur Colliery of ECL,  
Nirsachatti, Dhanbad

Ministry's Order No. L-20012/53/98-IR(C-I) dt.  
29.01.1999

#### APPEARANCES:

On behalf of the Workman/ : Mr. A. K. Sinha,  
Union Ld. Advocate

On behalf of the Management : None

State : JHARKHAND Industry : COAL

#### AWARD

Dhanbad, Dated the 2nd April, 2014

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1)(d) of the LD. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/53/98-IR(C-I) dt. 29.01.1999.

#### SCHEDULE

“Whether the action of the Management of Shampur Colliery in the Mugma area of ECL in denying employment to the dependent of Late Sarathi Bauri, Ex-Pump Khalasi having I.D. Card No.885161 under Para 9.4.2 of the NCWA-IV or 9.3.2 of the NCWA-V is justified? If not, to what relief the concerned workmen entitled to?”

2. Mr. A.K. Sinha, Ld. Advocate for petitioner Himani Baour in appeared and filed a petition for withdrawal of the Reference. The Ld. Counsel for the applicant submits that the applicant Himani Bourin has become old and sick, so she does not want to proceed with the case.

Perused the case record, and I find the Schedule to the Reference does not refer to the name of the applicant as the dependent of Late Ex-Pump Khalasi, Sarathi Bauri in relation to an issue about the denial of the Management

to her employment under the NCWA. It is the settled Law that once the Reference has been made by the Government of India, Ministry of Labour, New Delhi for adjudication, it can not be withdrawn. Since the Petitioner is unwilling to proceed with her case which was raised by J.S.S., Phatka, Shampur Colliery, Dhanbad, it is futile to proceed with the case. Hence the case is closed as no Industrial Dispute existent. Accordingly, No Dispute Award is passed.

KISHORI RAM, Presiding Officer

नई दिल्ली, 4 जून, 2014

**का.आ. 1733.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 230/1998) को प्रकाशित करती है जो केन्द्रीय सरकार को 04/06/2014 को प्राप्त हुआ था।

[सं. एल-20012/145/1998-आईआर (सी-I)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 4th June, 2014

**S.O. 1733.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref No. 230/1998) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the Industrial Dispute between the management of M/s. BCCL, and their workmen, received by the Central Government on 04/06/2014.

[No. L-20012/145/1998-IR (C-I)]

B. M. PATNAIK, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

#### PRESENT:

Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

#### REFERENCE NO. 230 OF 1998

#### PARTIES:

The President ,  
Bihar Pradesh Colliery Mazdoor Congress,  
Chirkunda, Distt. Burdwan

Vs.

Chief General Manager, C.V. Area of M/s. BCCL,  
Barakar, Dhanbad.

Ministry's Order No. L-20012/145/98-IR(C-1) dt.  
01.12.1998.

#### APPEARANCES :

On behalf of the Workman/ : Jr. to Late B.M.  
Union Prasad, Ld.  
Advocate

On behalf of the Management : Mr. D. K. Verma, &  
Sri S.N.Ghosh  
Ld.Advocates  
respectively

State : JHARKHAND

Industry : COAL

#### AWARD

Dhanbad, Dated the 23rd April, 2014

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/145/98-IR (C-I) dt. 1. 12. 1998.

#### SCHEDULE

“Whether the action of the Management of NLOCP/CV Area in BCCL in not regularizing Sri Dharmadeo Prasad Singh, General Mazdoor as Storekeeper although he is performing the job of Store Issue Clerk for last 3/4 years is justified? If not, what relief the workman is entitled to ?”

On receipt of the Order No. L-20012/145/98-IR(C-I) dt.01.12.1998. of the above mentioned reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, the Reference Case No. 230 of 1998 was registered on 22nd December, 1998 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The workman and the O.P./Management through their Lawyers appeared in, and contested the case.

2. The case of sponsoring BPCM, Chirkunda, for workman Dharmadeo Prasad Singh as per the written statement is that the workman has been a permanent employee of New Laikdih Open Cast Project, New Laikdih, P.O. Chirkunda, District Dhanbad since his appointment as General Mazdoor in the year 1989, but subsequently he has been authorized to work as a helper to Store Keeper and then as the Store Issue Clerk in 1990,

since then he has performed the job of the Store Issue Clerk with spotless service record. Despite his several times appeals to the Management for his regularization in the post of the Store Issue Clerk, payment of wages differences and other benefits as also represented by the Union, the Management failed to take appropriate steps. Finally, the dispute raised by the Union on failure of its conciliation resulted in the reference for an adjudication. As the workman has got sufficient experience and education qualification for the post of the Store Issue Clerk by virtue of his accordingly working since 1990, he is also quite eligible for promotion to the said post. He has been designated as "Store Issue Clerk" by the Management of the said Project and Chanch Victoria Area, in course of their official correspondences supportive to his such claim, as the Management of both the places have had exchange of correspondences for approval of his such regularization in the said post. The denial of the Management to his instant claim is a victimization matter of unfair Labour practice against the principle of natural justice. He was never warned of or prevented against such authorization for doing the job of the Store Issue Clerk. So the action of the Management in not regularizing him in the post of the Store Issue Clerk and the Store Keeper is not justified, as the Management can neither deny the legitimate right of the workman for it, nor utilize his service without providing his due claim and benefits for it.

In the rejoinder under the signature of Mr.S.Prakash, Ld.Advocate for the workman, categorically denying the allegations of the O.P./Management, it has been interalia stated that soon after his appointment as the General Mazdoor (T), Category -I, he was deployed to the post of the Issue Clerk in the store for more than four year out of his ability since then, working as the Store Issue Clerk, but without change in his wages.

3. In challenge to it, the case of the O.P./Management with categorical denials is that the reference is unmaintainable for the reason of the Union lacking requisite strength to sponsor the case of the workman. The workman belongs to the Time-rated Category, and he was working as the General Manager to the Open Cast Project. His services were utilized for the cleaning, dusting the store room, and subsequently for carrying on tools from the General Store, bringing the same to the Transit Store from where the tools and appliances used to be taken by the Helpers of different fitters and mechanics for carrying on repair and maintenance jobs. He was regularized as helper in excavation cadre as he was attached to excavation section in the Transit Store, and was fixed in Excavation Category E w.e.f. 28.9.1996. The Storekeeper and the Store Issue Clerk belong to the Clerical Cadre, so no scope is for regularization of a time rated worker in any post of the Clerical Grades as per the circulars of the JBCCI and those and directions of the company. As per the Cadre Scheme, all eligible candidates working in an area under

the control of the General Manager may apply for the post of the clerical cadre in Grade-III in the event of vacancies. The selection of eligible candidates based on their qualifications, experience and merits are effected by the D.P.C. constituted by the General Manager for it in order to fill up existing vacancies in clerical grade. It has no short cut procedure for regularization and entry of a time rated worker into clerical grade in connivance with local Management or the Controlling Officer of the time rated workers. The Storekeeper and the Store Issue Clerk perform their duties of maintaining the record, ledgers, and accounts etc. and the store Mazdoors take out the materials from the store and hand over the same to the parties on the basis of their slips issued. The workman concerned was performing the duties of Store Mazdoor and he was designated as helper in Excavation Category- E attached to Transit Store, working similar to helpers of the Store Issue Clerk/Storekeeper or Mechanics and Fitters. At times, he remained the In-charge of the Transit Store whenever the Storekeeper fell ill or absented for any other reasons, and he (workman) controlled the transit store without performing the duties of any Clerk or a store keeper. The workman was neither selected by the Selection Committee/DPC nor ever authorized by any Competent Authority, i.e., G.M. of the Area to work as the Store Issue Clerk or the Storekeeper. As per the Cadre Scheme and the Company's circular, there is no scope for his regularizations Storekeeper/Store Issue Clerk even if he performed certain clerical jobs at the instance of the Storekeeper or the Local Management. So the claim of the workman for his regularization is liable to be summarily rejected as meritless. He is not entitled to any relief.

4. The O.P./Management in its rejoinder categorically denying the allegations of the workman has alleged that the local management has no right to designate the workman as the Store Issue Clerk without any authority. If he did any unauthorized act without due approval, he can not get any wages for such work. The action of the Management in refusing to regularize him in clerical grade was justified.

#### FINDING WITH REASONS

5. In the instant case,WW1 Dhirendra Nayak,WW2 Ram Janam Singh, WW3 Dharamdeo Pd. Singh, the workman himself for the union, and MW1 Indranil Banerjee, the Personnel Officer for the O.P./Management have been respectively examined.

As the statement of workman Dharamdeo Pd.Singh (WW3) reveals his initial appointment as Excavation Mazdoor Trainee in August 1989; thereafter on his deputation in the store to work as Issue Material Clerk, he as the Store Keeper used to issue materials as well as to collect the same from the Regional Stores as per the letter (Ext.W.1) issued by the Management. He is alleged to have been continuously working from Jan 1990 upto the relevant

date according against the regular post of the Store Material Issue Clerk. He had submitted his representation (Ext.W.2) to the Management for his regularization initially taken by Janta Karamchari Sangh, but after its mergence with the present Union, the Industrial dispute was raised on his behalf. But the Indisputable fact is that his name is enrolled as Mazdoor in the Excavation Sections where he was regularized in Cat-E in the year 1996 on SLU after eight years. Materials are used to be distributed to different places from Transit Store. The workman appears to have overrelied upon his letter dt.19/20.12.1997 addressed to him working as Store Keeper KCOPC - which is warning letter for his lapse in improperly unloading of lubricant drums resulting in damage to them and wastage of  $\frac{1}{2}$  (half) drum Lubricant on earth, amounting to his gross misconduct. The fair admission of WW1 Dhirendra Nayak, the fitter at the Project clearly affirms no scope for any worker of any category to switch over to any cadre post directly by local administration as well as the existence of the General Manager as the Competent Authority at the Area to issue an order of promotion in favour any workman. To him, the Excavation Helper comes in Excavation Grade- E. Sri Ram Janam Singh (WW2) has not even seen any letter of appointment to the workman for working as the Store Keeper. The nature and discharge of the duty of the workman as Mazdoor in the Transit Store of the Project has been flatly denied by the workman and his colleague concerned.

6. But on the other hand, the unrebutted statement of MW1 Indranil Banerjee, the Personnel Officer of the O.P./Management positively but explicitly establishes the virtual status of the workman as General Mazdoor/Helper working in the Transit Stores wherfrom implements are issued to Mechanics etc. for taking up work, and those equipments after completion of work are preserved in the said Transit Stores after receiving the same from the respective workers; cleaning of the equipments for better use is the duty of the workman concerned; he was given the Excavation Cat-E wages in the year 1996; he is a time Rated worker, but he never worked as Monthly Rated Worker; no provision exists for switching over of a Time rated Worker (TRW) to the post of the Monthly Rated Worker (MRW). He never worked as the Store Keeper. A workman for promotion to the post of the Storekeeper has to pass through the D.P.C., which considers the qualifications, experience and merits of a workman for recommendation of the promotion. The affirmation of the Management witness is that in case of emergency when the Store Keeper is not available, the Store Helper may be allowed to release materials from the store by putting his signature on the slips for its noting in the Store Register.

7. Having gone through the materials available on the case record, I find the case of the workman has not merits at all, as he never performed the job of Store Keeper for last three/four years. Hence, it is hereby in the terms of

the reference, awarded that the action of the Management of NLOC/CV Area of BCCL in not regularization Sri Dharmdeo Prasad Singh the General Mazdoor as Store Keeper is quite justified, as he has never worked as the Store Issue Clerk for last three/four years. Therefore, the workman is not entitled to any relief.

KISHORI RAM, Presiding Officer

नई दिल्ली, 4 जून, 2014

**का.आ. 1734.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 28/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 04/06/2014 को प्राप्त हुआ था।**

[सं. एल-20012/447/1997-आईआर (सी-I)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 4th June, 2014

**S.O. 1734.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref No. 28/1999) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad now as shown in the Annexure, in the Industrial Dispute between the management of M/s. BCCL, and their workmen, received by the Central Government on 04/06/2014.**

[No. L-20012/447/1997-IR (C-I)]

B. M. PATNAIK, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

#### PRESENT:

Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

#### REFERENCE NO. 28 OF 1999

#### PARTIES:

The Area Secretary,  
Rastriya Colliery Mazdoor Sangh, Mahuda  
Washey, Mahuda, Dhanbad

Vs.

General Manager, Mahuda Area No. II of  
M/s. BCCL, Mahuda, Dhanbad.

Ministry's Order No. L-20012/447/97-IR(C-1) dt.  
08.01.1999.

**APPEARANCES:**

On behalf of the workman/ Union	: Mr.Surender Prasad,The Union Representative
On behalf of the Management	: Mr. U. K. Dubey, as Personnel Manager, Management Representative
State : JHARKHAND	Industry : COAL

**AWARD**

Dated, Dhanbad, the 22nd April, 2014

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/447/97-IR(C-I) dt. 08.01.1999.

**SCHEDULE**

"Whether the action of the Management of M/s. BCCL in dismissing Sh. Shobhan Modi from the services is justified? If not, to what relief the concerned workman is entitled to?"

On receipt of the Order No. L-20012/447/97-IR(C-I) dt. 08.01.1999 of the above mentioned reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, the Reference Case No. 28 of 1999 was registered on 21st January, 1999 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The Union and the O.P./Management through their own Representatives appeared in, and contested the case.

2. The case of sponsoring R.C.M.S. for workman Shobhan Modi is that he was unblemishedly a permanent loader of Bhatdee Colley of M/s. BCCL. The workman was issued the charge- sheet dt. 28.6.1991 for the charge of fraud and dishonesty to impersonate Shobhan Modi whose name recorded in the Form B Register which was punishable under clause 26.1.11 of the Certified Standing Orders of BCCL, suspending him also pending the enquiry. The workman also submitted his reply/letter dt. 6.7.1991. He was not paid any subsistence allowance, pending his suspension despite his requests as also made by the Union.

The Management appointed the Enquiry Officer with inordinate delay for conducting enquiry, and the workman was intimated of it further delayedly. He attended the enquiry before the enquiry Officer on several dates, but it was all along postponed due to the absence of the Management Representative, and the Enquiry Officer did not complete the enquiry ex parte, disregarding the requests of the workman and his co-worker, the Area Secretary of the recognized Union. But the Enquiry Officer conducted and completed the enquiry ex parte on 17.2.1994 in absence of the workman irrespective of its intimation to him after 2 years and 8 months. It stands evident that the enquiry was held biasedly and against the principle of natural justice. After further delay of about 7 months, the workman was dismissed from service as per the letter No. 1855 dt. 22.9.1994. It is also alleged that during pendency of the disciplinary proceeding, the workman was malafide issued the notice of superannuation dt. 30/31.3.1994, intimating him of his superannuation on and from 30.09.94, as well as instructing him to apply in Form-I for payment of gratuity to him on the date of his retirement. It was issued motivatedly so as to effect his dismissal since 22.9.1994. He was also dismissed on perverse finding of the enquiry report, without furnishing him with the copies of enquiry proceeding, enquiry report or any second show cause. So the action of the Management of M/s. BCCL in dismissing the workman Shobhan Modi was illegal and unjustified, as such his dismissal is liable to be set aside with relief of reinstatement with all back wages and other benefits.

3. In the rejoinder filed on behalf of the Union/ workman, the allegation of the OP/Management have been specifically denied, and it has been alleged the dismissal of the workman after several years of his unblemished service. Besides, he was not issued any copy of the enquiry report so as to submit his Second Show Cause. The dismissal of the workman is fit to be set aside.

4. Whereas the counter case of the O.P./Management with categorical denials is that the reference being vague is legally unsustainable. One person in the name of Shobhan Modi was working as a Loader in the Bhatdee Colliery. The person was charge-sheeted as per the chargesheet dt. 28.6.1991 for impersonation under the Certified Standing Order of the BCCL. He submitted his reply to it. Finding his reply unsatisfactory, the Enquiry Officer was appointed to hold a departmental enquiry into the charges levelled against-Sri Sobhan Modi. On notice of enquiry, the chargesheeted employee attended the enquiry along with his co-worker, fully participating in the enquiry proceeding, in which he also examined his witnesses for his defence, but on 17.2.1994, the last day of the enquiry, he attended the office of the Enquiry Officer, but he left the enquiry without any reason; the enquiry was held in his absence. It was held in accordance with the principle of natural justice.

Consequently, the Enquiry Officer submitted his enquiry report/finding, holding the person guilty of the charges levelled against him as in the chargesheet. The Disciplinary authority thoroughly examined the findings, enquiry proceedings and other documents of the enquiry in details, applied his mind in it, and dismissed the person from service from 22.9.94 in view of the gravity for his misconduct.

5. The O.P./Management in its rejoinder categorically denied the allegations of the Union/workman as baseless and exaggerated, and stated that the person concerned in the instant dispute is not Shobhan Modi, rather an imposter. The chargesheeted employee deliberately evaded the enquiry on 17.2.1994. The dismissal of Shobhan Modi as an imposter was justified, so he is not entitled to any relief. The O.P./Management also sought the permission for substantiating the charges of his misconduct levelled against Sri Shobhan Modi, in case the enquiry held unfair.

#### FINDING WITH REASONS

6. On the examinations of the Sri Sovan Modi, the workman as WW1 at the preliminary issue following the failure of the O.P./Management to examine any witness on its behalf at the point on two consecutive dates, the Tribunal as per its Order No.19 dt. 8.6.2006 held the domestic enquiry unfair and improper. So the case came up for the evidence of the O.P./Management and the workman both on merits. The record of the case reveals the examinations of MW1 Bhutnath Manjhi, the Clerk and MW2 Rohan Modi, the Soil Cutter, on behalf of the O.P./Management and WW1 Shovan Modi, WW2 Gorakh Nath Harijan, Retd. BCCL Munshi and WW3 Mohant Singh, Retd. Night Guard of Bhatdee Colliery for the Union/workman respectively on merits.

Mr. Surendra Prasad, the Union Representative for the workman has vociferously advanced his long argument oral and written as well that no proper justice was meted out to the workman, as he had to reply to the charge-sheet within 48 hours instead of seven days under clause 27.1. and 27.2 for any minor or major punishments under clauses 29.1. of the Certified Standing Orders of the M/s. BCCL respectively. There was inordinate delay in the enquiry which was held ex-parte. No response by the Appellate Authority to the appeal of the workman (Ext. W1) amounted to violation. Neither police verification held nor the document of erstwhile workman's appointment submitted by the Management. MW1 Bhutnath Manjhi appears to be no eye witness. The plain Death Certificate of Sohban Modi dt.13.3.1990 issued by Mukhiya (Ext.M.3) is not on the proper form, so it is not admissible. According to MW2 Rohan Modi's son of Late Shobhan Modi, his uncle complainant Hari Modi got totally blind by both eyes, and also died 15 years ago (in 1996), and the person working in place of his father also expired, but his evidence is not trustworthy. The Union Representative emphatically

further submitted that the Stamp Paper duly witnessed by WW2 Gorakh Nath Harizon testified the person named Sobhan Modi working was the real Sobhan Modi, in this case, no factual witness of the Management has been examined, therefore person Sobhan is entitled to monetary benefits of his suspension, and of his retrial ones, as his dismissal was improper and illegal. The Union Representative has referred the following four rulings, and accordingly submitted that inordinate delay vitiates disciplinary enquiry as held in 2005 Lab IC 4332 (SC), P.V.Maghadevan V.M.D, Tamil Nadu Housing Board. The ruling relates to initiation of inordinate delay and unexplained delay of ten years in issuance of charge Memo, but the instant case has no such long delay in it. The Union Representative has stressed that the termination of service after nine years of continuous officiation, alleging breach of provisions of Articles 14 & 16 of the Constitution should not be, though post was not advertised but the appointment was made and subsequently approved by competent authorities; it is well settled by judicial pronouncements that if an employee continuous on a post for several years, as a demand of equity, his services should not be terminated-termination quashed as held by the Hon'ble High Court in the case of Abhay Kumar Pandey Vs. State of Bihar reported in 2000(2)PUR 626. But the instant case of the workman relates to the charge of impersonation of real workman Shobhan Modi, the alleged workman has admittedly neither pleading nor any proof of his appointment nor the time or period of his continuous service in the Colliery. So the authority appears to be wide off the mark. Likewise the plea of Mr.Surendra Kumar is that the Hon'ble High Court, Jharkhand, in the case of A.N. Mishra Vs. Hindustan Steel Works Construction Ltd, reported in 2004 (2) JUR (SB)623 is of the view that the Enquiry Officer had not conducted the enquiry properly and proceeded so hastily in three sittings in one day which itself shows the Enquiry Officer bent upon to conclude the enquiry even ex-parte without following the procedure of law and without giving full opportunity to the petitioner. Since the enquiry proceeding and the enquiry report are vitiated in law, the consequential order of punishment itself is liable to be quashed; moreover the order of punishment is totally disproportionate to the charges levelled against the petitioner (Para 7 & 8), and that the order of dismissal passed by Management declared illegal, so workman is entitled to salary for period from date of dismissal till date of Award as held in the case of Deshraj Gupta Vs. Industrial Tribunal 1990 LAB .I.C.1892.

7. Whereas Mr.Uttam Kr.Dutta, the Representative for the Management has contended that consequent upon the enquiry having been declared unfair, the Learned Tribunal has to consider the materials of both the parties on merits, i.e, the statements of alleged Sobhan Modi (WW1) and his witnesses (WW2 & 3), out of whom none

of them could establish the identity of Hari Modi as the brother of the real workman. The workman as Sovan Modi as per Ext.M.2/4 (on merits) is not the real workman Sobhan Modi, the Loader of Bhatdih Colliery who died in the very year 1982 (Ext. M.3 on merit) but in his place, alleged workman was impersonating accordingly working there as evident from the documents with black-white photos of real Sobhan Modi and his younger brother Hari Modi of Village: Palara P.O.Tara, Distt.Hazaribagh, now Giridih (Ext.M.2). Highly strange is that the unpleaded development of a new story by the workman that as he did not pay money to his younger brother (Hari Mahato), so the latter complained against him before the Management or any alleged amicable settlement between the workman and his wife Bachani Devi, son Rohan Modi and brother Hari Modi over the stamp paper as witnessed by Gorakh Nath Harijan (WW2). As per Ext.W.12 - appears to be quite a myth so inadmissible. So consequent upon the proof of the charges levelled against the workman for misconduct of fraud and dishonesty under clause 26.1.11. of the Certified Standing Order of the BCCL, as he was not Sobhan Modi as named in the Form- B Register of the Colliery, so he was dismissed from service which is quite proportionate to the grave nature of his misconduct. Any of the aforesaid rulings of the Union Representative is not applicable to the case. So the workman is not entitled to any relief in the case of impersonation.

On the perusal and consideration of the afresh materials available on the case record, I find the facts as under :

- (i) The real workman was Sobhan Modi, the Loader at Bhatdih Colliery, belonged to village Palara, PO.Tara, Distt : Hazaribagh now Distt : Giridih, who died on 01.09.1982 at his village, leaving his son Rohan Modi (MW2). Hari Modi, the own brother of the said real workman, was also a loader at the same Colliery, but he has died now and
- (ii) The complain of Hari Modi (Ext. M.1 on merit) against the alleged instant workman of Azamgarh (U.P.) working as Loader at the same Colliery impersonating aforesaid real workman Sobhan Modi initiated the enquiry into it. After due departmental enquiry, the instant workman found guilty of the charge of impersonating the real workman Sobhan Modi. So in view of the grave misconduct, the dismissal of the instant workman by the same name appears to be quite legal and justified. It is quite proportionate to the grave nature of the misconduct as usually prevalent in the Colliery in collusion of a few Ministerial staff of the Management.

In result, it is awarded that the action of the Management of M/s BCCL in dismissing Sh. Shobhan

Modi (Instant alleged workman) from the services is quite justified. Therefore, he is not entitled to any relief.

KISHORI RAM, Presiding Officer

नई दिल्ली, 4 जून, 2014

**का.आ. 1735.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सी.सी.एल. के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद के पंचांत (संदर्भ संख्या 304 का 1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 04/06/2014 को प्राप्त हुआ था।

[सं. एल-20012/344/1999-आईआर (सी-I)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 4th June, 2014

**S.O. 1735.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref No. 304/1999) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the Industrial Dispute between the management of M/s. CCL, and their workmen, received by the Central Government on 04/06/2014.

[No. L-20012/344/1999-IR (C-I)]

B. M. PATNAIK, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

#### PRESENT:

Shri Kishori Ram, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D.Act., 1947.

#### REFERENCE NO. 304 OF 1999

#### PARTIES:

Sri Dinesh Ray,  
Perez Bungalow, Urimari Project, P.O.Banji  
(Ghatotkach),  
Dist: Hazaribagh

Vs.

The Agent/Project Officer, Urimari Project of M/s  
CCL.PO: Sayal, Distt: Hazaribagh,  
Order No. L-20012/344/99 (C-I) dt. 24.11.99.

**APPEARANCES:**

On behalf of the workman/ : Mr. D. Mukherjee  
 Union Ld. Advocate

On behalf of the : Mr. D. K. Verma  
 Management Ld. Advocate

State : JHARKHAND Industry : COAL

**AWARD**

Dated, Dhanbad, the 15th April, 2014

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No.L-20012/344/99(C-I) dt. 24.11.99.

**SCHEDULE**

“Whether the action of the Management of Urimari Project of M/s CCL in dismissing Sri Dinesh Ray from the services of the Company w.e.f. 28.1.1999 is justified and legal? If not, to what relief the workman is entitled.”

On receipt of the Order No. L-20012/344/99(C-I) dt. 24.11.99. of the above mentioned reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, the Reference Case No. 304 of 1999 was registered on 8th December, 1999 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The workman and the O.P./Management through their Lawyers appeared in, and contested the case.

2. The case of workman Dinesh Ray as stated in his written statement is that he had been continuously but satisfactorily working as a permanent employee since his appointment as per his appointment letter dt.13.10.1995. But being biased with him for his active participation in ventilating the grievance of the workman the Management illegally and unauthorisedly issued him the false and frivolous chargesheet dt. 31.10.1997 on the allegation of his securing alleged employment by furnishing wrong information. The allegations as per the charge sheet did not constitute any misconduct under the provisions of the Certified Standing Order of the Company. The appointments of persons just that of the workman are effected after due verification of the relevant documents to the satisfaction of the Management. The petitioner was

appointed on his merits, and had produced his documents, but he never supplied any wrong information to the Management. Though he has submitted his satisfactory explanation, the departmental enquiry was biasedly set up which was illegally conducted and contrary to the principle of natural justice, and therein no charges as levelled were proved against him. The findings of the Enquiry Officer were perverse, being biased on the evidence of the record. Even then, the workman was dismissed by an unauthorized person. He had also represented before the Management against the illegal and arbitrary dismissal, but not any effect. At last at raising the Industrial Dispute before the A.L.C. (C), Ranchi, but its failure in conciliation resulted in the reference for adjudication. The action of the Management in dismissing the workman from service w.e.f. 28.1.1991 was illegal, unjustified, anti-labour policy and disproportionate to the alleged offence.

3. The workman in his rejoinder has specifically denied all the allegations of the O.P./Management as false, frivolous and motivated and stated that he was not given full opportunity in the departmental enquiry, nor copies of any proceeding of the documents the Management had relied upon were supplied to him, despite his protest for the change of the Enquiry Officer.

4. On the other hand, the contra pleaded case of O.P./Management with categorical denials is that workman Dinesh Ray S/o Sri Ramvish Ray fraudulently secured his employment into the services of the Company as Trainee in Category-I as per the letter dt.13.10.1995 under the Land Looser Scheme of Piparwar Area, by declaring himself as the grandson of Sahdeo Kurmi, the owner of the Lands under the plot Nos. 394, 396, 419, 426, 433, 459, 479, 480, 481 and 485 of the Khata No.42 at village Karo, P.S. Keredari, District : Hazaribagh, which was acquired by the Company for mining. In course of the enquiry by the Vigilance Department, it surfaced one person named Soharai Kurmi, son of Sahdeo Kurmi, the owner of the aforesaid lands, had already got his employment for the lands under the Land Looser Scheme. The workman was not in any way related to the owner of the land. So he was issued the chargesheet dt. 31.10.1997 for his fraudulent employment, calling for an explanation from him for the commission of his said misconduct. He submitted his reply dt.3.4.1998, denying the allegations levelled against him. The Competent Authority as per the letter dt. 31.7.1998 appointed Sri A.S. Prasad, the Chief Engineer, as the Enquiry Officer, and Sri V.K.Tripathi as the Presenting Officer in respect of the departmental enquiry into the charges against the workman. On the notices of the enquiry, the workman as well as others appeared with his co-worker and regularly fully participated in the enquiry, availing full opportunity to cross examine the Management witnesses, to give his own statement, and to produce his own defence witness, if any. Seeking adjournment for the

examination of his defence witness on the subsequently, he took adjournment for it, but he neither appeared nor produced any defence witness. Despite enough opportunity in that regard, he deliberately evaded his appearance, as he had neither documentary evidence nor oral one in support of his case or declaration made by him for getting his employment. Finally after giving him several opportunity, the Enquiry Officer closed the Enquiry and submitted his enquiry report dt. 5.1.1999, holding the workman guilty for the misconduct as charged against him.

On the overall consideration of all aspects of the case, and following due proper procedure, the Disciplinary Authority dismissed the workman from the services w.e.f. 29.01.1999 as per the order dt.28.1.1999. Thus, the action of the Management in dismissing the workman from his service was legal and justified, so he is not entitled to any relief.

5. The O.P./Management in their rejoinder has categorically denied the allegations of the workman, and stated that joining his duty as per the terms and conditions contained in is appointment letter and his continuance of working as trainee on different jobs are the admissions of the workman. Besides, the appointments are issued subject to verification of all the particulars, and the verification process takes long time in view of non-cooperation from the police and other authorities concerned. In spite of all the things, some people still managed to get employment through malpractices until discovered by the vigilance enquiry. The Management urged for decision at the fairness and propriety of the domestic enquiry as a preliminary issue, and in case of finding it unfair, for an opportunity to prove the charges by adducing afresh evidence.

#### FINDING WITH REASONS

6. In the instant Reference case, after hearing both the parties at the preliminary point, the Tribunal as per the Order No. 34 dt. 21.9.2011 hold the domestic enquiry quite fair, proper and conducive to the principle of natural justice.

Consequenlty, the case directly came up for hearing the final argument at the point of merits. The argument advanced by Mr. D.Mukherjee, Ld.Counsel for workman is that in the instant case, the Management has failed to produce any documents to show any representation of the workman in writing claiming for his employment under Land Loser Scheme on his declaration as grandson of Sahadeo Kurmi or to show that there was an alleged Land Looser Scheme to giving employment to nominee of the Land Owner or the appointment of the concerned workman was in the progress in the H.Qr. against acquisition of Land; the enquiry was conducted without giving opportunity to the workman for his defence as admitted by the Enquiry Officer, so the dismissal of concerned

workman was illegal and void ab initio. It has been observed by the Hon'ble Apex Court in the case of State Bank of India and others Vs.D.C.Agarwal & Others reported in SCLJ (3) at page 485 that while imposing major or minor punishment, the Disciplinary Authority can not act on the materials which was neither shown nor supplied to delinquent. Another ruling AIR 1989 (SC) at page 49, Scooter India Ltd,Lucknow Vs. Labour Court relied upon by Mr. Mukherjee relates to the dismissal of Sri Dasrath Gope from service on the same allegation. The CGIT (No.1), Dhanbad in its reference has passed an award for favour of the workman for reinstatement with 50% back wages .In order to justify the case of the workman, a Certified Copy of the Award dt 3rd Nov., 2011 passed in Ref.No.279/2000 by the CGIT (No.1), Dhanbad in respect of aforesaid Dasrath Gope has been filed for perusal.

In challenge to it the contention of Mr.D.K.Verma, Ld.Advocate for O.P./Management is that on the proof of the misconduct of the instant workman for fraudulently getting employment under the Land Looser Scheme as per the chargesheet, consequent upon his appointment letter dt.13.10.1995 (Ext.M. 4/8) the workman was rightly dismissed from the service, because of the fact that Shri Sohrai Kurmi S/o Sahadev Kurmi .the owner of the same plot of land under same Khata concerned was offered employment under the Land Looser Scheme as per his appointment letter (Ext.M. 4/10); under such circumstances, the dismissal of workman for the misconduct or fraudulent employment was quite proper and justified.

On meticulous study of the case record and having considered all the materials available on the case record, I find that the workman Dinesh Ray S/o Shri Ram Yash Rai as per his appointment letter appears to have fraudulently secured his employment as the grandson of the Land Owner Sahadev Kurmi of the same land under Khata Nos 42, Plot Nos.394, 396, 419, 426, 433, 450, 479, 480, 481 and 450 at Village Karo P.S. & Circle Keredari, Distt; Hazaribagh Sohrai Kurmi S/o of the aforesaid Land Owner was offered employment as P.R. by the Management under the Land Looser Scheme. It prima facie appears to be out and out a fraudulent employment of the workman in place of Sohrai Kurmi S/o Sahadev Kurmi, the Land Owner, who was not in any way appears to be related to the workman .In the instant case, as it stands before me, all the materials the acquisition of Sahadev Kurmi's said Lands under the said Scheme and the alleged appointment of the workman as his grandson as contrasted with that of Sohrai Kurmi, real son of the Land owner available on the case record are proved facts. Under these circumstances, none of both the rulings applies to it.Rather,it is the settled law as held in the case of Prasad Film Laboratoies,Rep. by it Director Vs. the Presiding Officer, Principal Labour Court, Madras (2002) 100 FJR 728 that punishment of an employee guilty of fraud etc will be proper. I am also of the view that the dismissal punishment to the workman for fraudulently

securing employment is quite appropriate and proportionate to the grave nature of his aforesaid fraudulent employment the workman has got.

Considering the aforesaid facts & circumstances, it is hereby responded in the terms of the reference, and accordingly awarded that the action of the Management of Urimari Project of the M/s. CCL in dismissing Sri Dinesh Ray from the services of the Company w.e.f. 28.01.1999 is quite justified & legal. Hence the workman is not entitled to any relief.

KISHORI RAM, Presiding Officer

नई दिल्ली, 4 जून, 2014

**का.आ. 1736.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 314/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 04/06/2014 को प्राप्त हुआ था।**

[सं. एल-20012/174/1999-आईआर (सी-1)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 4th June, 2014

**S.O. 1736.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref No. 314/1999) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad now as shown in the Annexure, in the Industrial Dispute between the management of M/s. BCCL, and their workmen, received by the Central Government on 04/06/2014.

[No. L-20012/174/1999-IR (C-I)]

B. M. PATNAIK, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

#### PRESENT:

Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D.Act., 1947.

#### REFERENCE NO.314 OF 1999

#### PARTIES:

The Area Secretary,  
United Coal Workers Union, E.J.Area, Bhowra,  
PO : Bhowra, Dhanbad,

Vs.

The Project Officer, Bararee Colliery of M/s. BCCL,  
PO: Bhulan Bararee, Dhanbad.

Ministry's Order No. L-20012/174/99-IR(C-I) dt.  
19.11.1999.

#### APPEARANCES :

On behalf of the workman/ : Mr. S.C. Gaur  
Union Ld. Advocate

On behalf of the : Mr. D. K. Verma,  
Management Ld. Advocate

State : JHARKHAND Industry : COAL

Dhanbad, Dated the 30th April, 2014

#### AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1)(d) of the LD. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/174/99-IR(C-I) dt.19.11.1999.

#### SCHEDULE

“Whether the action of the Management of M/s. BCCL, Bararee Colliery in denying employment to the defendant son of Sh.Jagdish Bhuria who died on 26.6.1996 on the grounds that he had been dismissed w.e.f. 16.6.1995 after ex-parte enquiry during the period of his illness and treatment in Central Hospital is just, proper, and legal? If not, to what relief the defendant son of the erst workman is entitled.”

On receipt of the Order No L-20012/174/99-IR(C-I) dt. 19.11.1999 of the above mentioned reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, the Reference Case No. 314 of 1999 was registered on 8th Dec., 1999 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The Union and the O.P./Management through their own Advocates appeared in, and contested the case.

2. The case of the sponsoring Union for the dependent son of deceased workman Jagdish Bhuria is that the workman was employed by the erstwhile owners on 5.4.1965, recording his age/Date of birth as 10.4.1941. The Mine was taken over by the Central Government, and was subsequently nationalized on 1.5.1972. He was designated as Miner Loader, and accordingly contributed to the progress and prosperity of the Mine and Company. But due to exposure of coal dust, he got allied disease

including Branco Asthma, for which he remained under treatment of Branco Asthma in Jealgora Hospital of the Company as an Indoor patient from April 26 to 30, May 11 to 17 and June 24 to July 5, 1995, and then at Central Hospital, Dhanbad, where he was lastly referred on 27.09.1995. After returning from the Central Hospital, he was again under treatment at Jealgora Central Hospital of the company as an Indoor Patient from 20.02.1996 to 23.3.1996, but again during his treatment at Central Hospital, Dhanbad following his admission to the Central Hospital Dhanbad on 17.6.1996 he expired on 26.6.1996 at 10.50 p.m. His dependent son Sanjay Bhuria applied with full particulars and papers to the Management for his employment on 4.12.1997 under the provisions 9.3.2. of the NCWA-V, for which the claimant reminded the Management from time to time, waiting for a long time, but to no avail. Finally, he the petitioner raised the Industrial Dispute through the U.C.W.U. before the A.L.C.(C), Dhanbad III on 24.03.1998, but the failure of it in conciliation due to adamant attitude of the Management resulted in the reference to the Tribunal for an adjudication. For the first time, the claimant learnt of the alleged dismissal of the workman after ex-parte enquiry as per the comment dt. 10.9.1998 of the Management filed before the A.L.C. The Management failed to produce any paper of the alleged ex-parte enquiry and order of the ex-workman's dismissal communicated to and received by him (the workman). Whereas the illness of the workman was well within the knowledge of the Management which had shifted him from one hospital to another for better treatment. The entire facts of the Management's statement about alleged chargesheet, enquiry proceeding and action etc. are quite false with a motive to deny the employment of the petitioner. The action of the Management denying employment to the petitioner is illegal and unjustified.

3. The Union in its rejoinder for the petitioner specifically denied all the allegations of the Management, stating the maintainability of the reference in law and facts as also in the terms of Sec.2K of the I.D.Act., as the legal heir of the deceased workman following the latter's death has right to raise the dispute. The workman was dead at the time of his alleged dismissal from service which was to the knowledge of the Employers. The dismissal order was manufactured, following the raising of the Industrial dispute.

4. Whereas challenging the maintainability of the reference, the contra case of the O.P./Management with categorical denials is that no NCWA provides for an employment to the defendant of a dismissed employee. The concerned workman Jagdish Bhuria had started to unauthorisedly absent from his duty w.e.f. 12.11.1992 without any prior permission of the Management. The above act of his absence was a misconduct of the workman, so he was issued the charge sheet dt. 5.10.1993 for it. The

workman did not submit any reply to it. Consequent upon the appointment of the Enquiry Officer by the Management for domestic enquiry into the chargesheet, the Enquiry Officer issued notice of enquiry even by Registered post to the workman, fixing the date of enquiry, but the workman neither appeared in nor represented his any inability to attend the enquiry as on repeated dates and notices to the workman, even on the notice of enquiry having been published in a daily News Paper. Finally the Enquiry Officer fairly and legally conducted Ex-parte enquiry as per the principle of natural justice, and submitted his report, holding therein the workman guilty of the charges. Thereafter the workman was dismissed by the Management w.e.f. 16.6.1995 which is legal and justified. The Management sought the permission for substantiating the charges against the workman as a preliminary issue, in case the enquiry found unfair and improper. The Union's claim for employment of the dependent son, though unnamed by it is on ground of the workman's dismissal on 16.6.1995, but he died on 26.6.1996. The Union has no locus standi to raise the Industrial Dispute on behalf of a dead person. The instant dispute is not in the terms of Sec.2K of the I.D.Act, 1947. The reference is vague.

5. The O.P./Management in its rejoinder has categorically denied the allegations of the Union/the petitioner, and stated that the workman or his family members never informed the Management of his illness.

#### FINDING WITH REASONS

6. In the instant reference, the proceeding as evidently headed to the point of domestic enquiry as preliminary issue about fairness in course of which MWI Lalan Pandey for the O.P./Management was examined as the Enquiry Officer, as he had held the enquiry ex-parte against workman Jagdish Bhuria for his misconduct of unauthorised absenteeism, now aforesaid Management witness is reported as dead by Mr. D.K. Verma, Learned Counsel for the Management on 18.10.2011 as noted in the Order Sheet under Order No. 32. Thereafter WWI Sanjay Bhuria, as the dependent son of the workman, was examined on behalf of the Union concerned in the terms of the reference about the denial of his employment by the Management on the ground of his father having been earlier dismissed.

7. Mr. S.C. Gaur, Learned Counsel for the Union concerned/the petitioner has to submit that the deceased employee Jagdish Bhuria was a M/Loader at Bararee Colliery, but he had been under long treatment since 1992 at Jealgora Central Hospital of M/s. BCCL as per his Medical Treatment documents {Ext.W.2 series} and had died in the year 1996 {Ext.W1}; after the death of his father, the petitioner Sanjay Bhuria {WWI} applied for his employment in place of his father, but the Management as

per the original letter No.433 dt.11.2.1998 (Ext.W.3) denied his employment on the ground that the workman was dismissed by the Management from his service in the year 1995. Further argued by Mr. Gaur is that the dismissal matter of his father based on ex-parte enquiry for the first time came to the knowledge of the petitioner in course of the conciliation proceeding before the A.L.C.(C), Dhanbad, as such the action of the Management in denying employment to the dependent son of the deceased workman on that ground is unjustified and illegal. The plea of Mr. Gaur, Learned Counsel for the petitioner is that absence from duty without unauthorized absence, but it does not always mean the wilful, as there may be different eventualities including compelling circumstances like illness beyond his control due to which an employee may abstain from duty so the Disciplinary Authority is required to prove that absence is wilful. In absence of such findings, absence will not amount to misconduct as held in the case of Pandav Kumar Vs. Union of India reported in 2012 (2) JLJR 129 (SB) But the instant reference does not relate to any matter of an application/representation for extension of leave, rather it relates to the absence of the deceased workman without any application or permission from the employer. It has also been pleaded by Mr.Gaur for the petitioner that “termination of service without giving any notice and holding enquiry and without reason assigned for it, the order is a gross violative of principle of natural justice, when there is an arbitrariness in termination of service of an employee, there is always violation of right of equity ‘non-supply of copy of Enquiry Report nor notice before holding enquiry, so called Enquiry Report has got no relevancy for termination of services; as such the impugned order was held as violative of article 14 of the Constitution so it was quashed in the case of Renu Kumari Vs. State of Jharkhand reported in 2012 (i) JLJR 133. In the instant reference under adjudication, I find that the admitted long illness and treatment of the deceased workman as per his Medical treatment documents (Ext.W2 series),on the perusal of which clearly prove his intermittent treatment at BCCL Jealgora Central Hospital during the periods of 1992,1994,1995 and 1996 during which the workman despite having been discharged several times from the Hospital could not justify his unauthorized absence for the relevant period. These very acts of the deceased workman clearly indicate his wilful absence from his duty in the relevant years, for that reason the domestic enquiry though ex-parte was held quite fairly by the MWI Lalan Pandey, the Personnel Manager of the Colliery as Enquiry Officer following the publication of the notice of enquiry in the Daily (Awaaz) dt.17.4.1995 (Ext. M4) at last. In the light of the aforesaid facts, Mr. D.K. Verma, the Learned Advocate for the O.P./Management appears to

have rightly argued that the petitioner is not entitled to employment in place of his father who was dismissed from service w.e.f. 16.6.95 about one year prior to his death on 12.06.1996; as such none of the rulings appears to hold good with the instant case.

Having gone through the materials available on the case record, I am of the considered view that the claim of the petitioner for his employment in place of his father is not justified, for the reason that his father as the workman for his wilful absence from his duty as usually in his past career earlier dismissed and he had lost his lien on his service. Hence it is hereby awarded that the action of the Management of the M/s. BCCL, Bararee Colliery in denying employment to the defendant son of workman Jagdish Bhuria who died on 26.6.1996 on the ground of having been dismissed earlier w.e.f. 6.6.1995 after ex-parte enquiry during the periods of his illness and treatment at Central Hospital, Dhanbad is just, proper and legal for the reasons of his wilful long absence, resulting in loss of his lien on his service. Hence the present defendant of the Ex-workman is not entitled to any relief.

KISHORI RAM, Presiding Officer

नई दिल्ली, 4 जून, 2014

**का.आ. 1737.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 147/1994) को प्रकाशित करती है जो केन्द्रीय सरकार को 04/06/2014 को प्राप्त हुआ था।

[सं. एल-20012/399/1993-आईआर (सी-I)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 4th June, 2014

**S.O. 1737.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref No. 147/1994) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad now as shown in the Annexure, in the Industrial Dispute between the management of M/s. CCL, and their workmen, received by the Central Government on 04/06/2014.

[No. L-20012/399/1993-IR (C-I)]

B. M. PATNAIK, Desk Officer

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL (NO.1), DHANBAD****REFERENCE NO. 147/1994**

In the matter of reference under Section 10(1)(d)(2A) of the I.D.Act, 1947

Employer in relation to the managemet of Rajrappa Washery M/s. CCL

**AND**

Their Workmen

**PRESENT:**

Sri R. K. Saran, Presiding Officer

**APPEARANCES:**

For the Employers : Sri D. K. Verma,  
Advocate

For the Workman : None

State : JHARKHAND

Industry : COAL

Dated : 8th May, 2014

**AWARD**

By order No. I-20012/399/93 IR (C-I) dated 14.06.1994, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal :

**SCHEDULE**

“Whether the claim of Shri Lakshman Mahto and 60 others ( as per the list enclosed) for their regularization by the management of Rajrappa washery CCL is legal and justified ? If so to what relief is the workmen concerned entitled and from what date ?” /

Sl. No	Name	Father's name	Village	P.O	P.S	District
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Sri D.Krishna Rao	Sri D. Narayan Rao	Gunualpuram	Pedda-Paddumpuram	Milyaputi	Sirkar Collar
2.	Mathura Pd. Sharma	Bendho Sharma	Basaria	Basaria	Chouparan	Hazaribagh
3.	Sri Baidhath Ram	Sri Dani Ram	Karanj	Sisai	Sisai	Gumla
4.	Sri Birbal Das	Sri Sakhicharan Rabidas	Mael	Chitarpur	Ramgarh	Hazaribagh
5.	Sri Raj Kumar Singh	Sri Choto Singh	Chipri	Chatro Chatti	Gomia	Giridih
6.	Sri Surash Sah	Sri Ram Parwesh Sah	Shripur	Aiar	Jagishpur	Bhojpur
7.	Sri Sureash Mahto	Sri Santoki Mahto	Borobing	Barki Pona	Ramgarh	Hazaribagh
8.	Sri Sibu Mahto	Aklu Mahto	Borobing	Barki Pona	Ramgarh	Hazaribagh
9.	Sri Bishu Bedia	Sri Kaliya Bedia	Rampur	Fedabeda	Sili	Ranchi
10.	Sri Golak Sah	Sri Mahabir Sah	Nayadih	Sondimra	Gola	Hazaribagh
11.	Sri Rajendra Singh	Sri Janglu Singh	Marangmarcha	Chitarpur	Ramgarh	Hazaribagh
12.	Sri Yasin Ahsari	Sri Md. Bashir	Khokha	Toyar	Gola	Hazaribagh
13.	Sri Dhanraj Sah	Sri Balam Sah	Sharipur	Ain	Jgdishpur	Bhojpur
14.	Sri C. N. Ravi	Sri Bigu Rabidas	Potmdaga	Siru	Ramgarh	Hazaribagh
15.	Sri Puran Ram	Sri Haridas Rabidas	Chetar	Chetar	Rarngarh	Hazaribagh
16.	Sri Chatur Mahto	Sri Rusu Mahto	Chetar	Chetar	Ramgarh	Hazaribagh
17.	Sri Thakurdas Mahto	Sri Ram Briksh Mahto	Barki Pona	Barki Pona	Ramgarh	Hazaribagh
18.	Sri Harakhilal Mahto	Sri Dhanu Mahto	Dhutwa	Lari	Ramgarh	Hazaribagh
19.	Sri Nakul Mahto	Sri Jaldhar Mahto	Borobing	Barki Pona	Ramgarh	Hazaribagh
20.	Sri Md. Saduliah	Sri Alimuddin	Chitarpur	Chitarpur	Ramgarh	Hazaribagh

(1)	(2)	(3)	(4)	(5)	(6)	(7)
21.	Sri Md. Amanullah	Sri Md. Enayatullah	Chitarpur	Chitarpur	Ramgarh	Hazaribagh
22.	Sri Lakhan Paul	Sri Tirlochan Paul	Hamirpur	Hamirpur	Patro Shayar	Bankura (W.B.)
23.	Sri Trithnath Mahto	Sri Laldhari Mahto	Chitarpur	Chitarpur	Ramgarh	Hazaribagh
24.	Sri Baidhnath Panda	Sri Ganesh Panda	Khokha	Toyar	Gola	Hazaribagh
25.	Sri Md. Hussain	Sri Md. Zear Ali	Bahda	Banda	Gola	Hazaribagh
26.	Sri Lakshman Mahto	Sri Jaldhar Mahto	Borobing	Barki Pona	Ramgarh	Hazaribagh
27.	Sri Sudhan Keot	Sri Mangra Deot	Bhuchungdih	Rajrappa Project Ramgarh		Hazaribagh
28.	Sri Minhaj	Sri Md. Hasan Mustafa	Chitarpur	Chitarpur	Ramgarh	Hazaribagh
29.	Sri Sahdeo Ram	Sri Lilu Mahto	Barki Pona	Barki Pona	Ramgarh	Hazaribagh
30.	Sri Biharilal Mahto	Sri Gondey Mahto	Khokha	Toyar	Gola	Hazaribagh
31.	Sri Lakan Ram Beddia	Sri Charku Bedia	Murpa	Murpa	Gola	Hazaribagh
32.	Sri Ramesh Prasad	Sri Ghanshyam Pd.	Bcdpur	Islampur	Islampur	Nalanda
33.	Sri Bhuneshwar Dahgi	Sri Lilu Mahto	Barki Pona	Barki Pona	Ramgarh	Hazaribagh
34.	Sri Tarkeshwar	Sri Ganesh Panda	Khokha	Toyar	Gola	Hazaribagh
35.	Sri Rajnath Mahto	Lari Chotki				
36.	Sri Karma Dangi	Sri Shikhan Mahto	Barki Pona	Barki Pona	Ramgarh	Hazaribagh
37.	Sri Mohar Lal Mahto	Sri Mahesh Mahto Dhutuwa	Dhutuwa	Barki Lari	Ramgarh	Hazaribagh
38.	Sri Nazir Ali Khan	Mansoorul Hassan Khan	Chitarpur	Chitarpur	Ramgarh	Hazaribagh
39.	Sri Jai Prakash Singh	Sri Raghunath Singh	Takipur	Takipur	Maharajganj	Siwan
40.	Ram Agia Singh	Sri Lakshman Singh	Dumarson Bangra	Dumarson- Bangra	Masrk	Chapra (Saran)
41.	Sri Kanhaya Kumar Mahto	Sri Matlu Mahto	Barki Pona	Barki Pona	Ramgarh	Hazaribagh
42.	Sri Md. Hussain	Sri Md. Latif	Matwari	Matwari	Hazaribagh	Hazaribagh
43.	Sri Md. Salim	Sri Niamat Mian Banda	Banda	Banda	Gola	Hazaribagh
44.	Sri Moleshwar Mahto	Sri Sahu Mahto	Barki Pona	Barki Pona	Ramgarh	Hazaribagh
45.	Sri Lakshman Munda	Sri Baburarn Munda	Gola	Gola	Gola	Hazaribagh
46.	Sri Shafique Khan	Sri Md. Kasim Khan	Rohtas	Rohtas	Rohtas	Rohtas
47.	Sri Abdul Hussain	Sri Md. Abdur Rashid	Betul	Betul	Gola	Hazaribagh
48.	Sri Mansoor Ansari	Sri Md. Suleman Ansari	Devatu	Gola	Gola	Hazaribagh
49.	Sri Ganesh Roy	Sri Kalgshwar Roy .	Shubhankarpur	Tisiata-Mahthi	Tisiatu Mahthi	Vaishai
50.	Bateshwar Singh	Sri Balram Singh	Chatrar-Mandu	Chatar-Mandu	Ramgarh	Hazaribagh
51.	Sri Md. Sayeed Khan	Sri Md. Tahir Khan	Gala	Gola	Gola	Hazaribagh
52.	Sri Gurudyal Bedia	Sri Charku Bedia	Mpupa	Banda	Gola	Hazaribagh
53.	Sri Pandu Prajapati	Sri Prayan Prajapati	Marangmarcha	Chitarpur	Ramgarh	Hazaribagh
54.	Sri Kaushal Mahto	Sri Sitaram Mahto	Dhutuwa	Lari	Ramgarh	Hazaribagh

(1)	(2)	(3)	(4)	(5)	(6)	(7)
55.	Sri Kamlesh Singh	Late Balram Singh	Chatra	Chatra	Ramgarh	Hazaribagh
56.	Sri Nageshwar Mahto	Sri Parmeshwar Mahto	Barki Pona	Barki Pona	Ramgarh Cantt.	Hazaribagh
57.	Gourishankar Mahto	Sri Mahabir Mahto	Gola	Gola	Gola	Hazaribagh
58.	Devchand Mahto	Sri Chhutau Mahto	Barki Pena	Barki Pena	Gola	Hazaribagh
59.	Sri Gopla Mahto	Sri Rohit Mahto	Koram bay	Murppa	Gola	Hazaribagh
60.	Sri Anil Prasad	Sri Govind Sam	Gola	Gola	Gola	Hazaribagh
61.	Sri Azahar Ahmad	Gafar Main	Bharthuma	Bharthuma	Kako	Zahanaba

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently proceed. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer